This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

WIT AND HUMOR

OF

BENCH AND BAR

BY

MARSHALL BROWN

The riotous tumult of a laugh is the mob-law of the features, and propriety the magistrate who reads the Riot Act. —HOLMES.

CHICAGO
T. H. FLOOD & CO
1899

LIBRARY OF THE
LELAND STANFORD, JR., UNIVERSITY
LAW DEPARTMENT.

AK
DEV
X2W

COPYRIGHT, 1899,
BY
T. H. FLOOD & CO.

92796

UNIVERSITY OF CALIFORNIA LIBRARY

STATE JOURNAL PRINTING COMPANY,
PRINTERS AND STEREOTYPERS,
MADISON, WIS.

PREFACE.

In the spare moments of many busy professional years this volume has been edited from the best literature of the Old World and the New.

Wit, in its finest sense, is wisdom. In its more popular sense, wit is lightning, humor the atmosphere in which it plays; wit — spontaneous, keen, cutting, destructive; humor — creative, sympathetic, broadly human. Dr. Fuller's remark that a "negro is the image of God cut in ebony," is humorous. Horace Smith's inversion of it, that "the task-master is the image of the devil cut in ivory," is witty. Washington Irving's skit on the Yankee lawyer, converted on seeing a ghost, and after that never cheating — "except when it was to his own advantage," is humorous; and so is the pathetic appeal of the Irish barrister: "Gentlemen of the jury, think of his poor mother — his only mother."

The author believes that the volume contains the best sayings of eminent men, of bench and bar, at home and abroad.

MARSHALL BROWN.

PITTSBURGH, PA., *November, 1892.*

Wit, bright, rapid and blasting as the lightning, flashes, strikes and vanishes in an instant; humor, warm and all-embracing as the sunshine, bathes its objects in a genial and abiding light. — WHIPPLE.

Things are all big with jest; nothing that's plain
But may be witty, if thou hast the vein. — HERBERT.

Whenever you find humor, you find pathos close by its side.
— WHIPPLE.

Impromptu is the touchstone of wit. — MOLIERE.

Isaac Barrow, an eminent English pulpit orator, defining wit, says:

"*Sometimes it lieth in pat allusion to a known story, or in seasonable application of a trivial saying, or in forging an apposite tale; sometimes it playeth in words and phrases, taking advantage from the ambiguity of their sense, or the affinity of their sound; sometimes it is wrapped in a dress of humorous expression; sometimes it lurketh under an odd similitude; sometimes it is lodged in a sly question, in a smart answer, in a quirkish reason, in a shrewd intimation, in cunningly diverting or cleverly retorting an objection; sometimes it is couched in a bold scheme of speech, in a tart irony, in a lusty hyperbole, in a startling metaphor, in a plausible reconciling of contradictions, or in acute nonsense; sometimes a scenical representation of persons or things, a counterfeit speech, a mimical look or gesture passeth for it; sometimes an affected simplicity, sometimes a presumptuous bluntness giveth it being; sometimes it riseth from a lucky hitting upon what is strange, sometimes from a crafty wresting obvious matter to the purpose; often it consisteth in one knows not what, and springeth up one can hardly tell how. Its ways are unaccountable and inexplicable, being answerable to the numberless rovings of fancy and windings of language. It is, in short, a manner of speaking out of the simple and plain way (such as reason teacheth and proveth things by), which by a pretty surprising uncouthness in conceit or expression doth affect or amuse the fancy.*"

God has given us wit and flavor, and brightness and laughter, and perfumes to enliven the days of man's pilgrimage, and to charm his pained steps over the burning marl. — SYDNEY SMITH.

AUTHORS AND TITLES.

Abernethy, Lord 153
Abinger, Lord 132
Admiralty 1
Admission to Bar, Examination for 200
Affidavit, Oratory of 4
Alderson, Baron 210, 332
Alibi 7
Allen, John 11
Althorp, Lord 14
Andrews, Charles B. 394
Anomalies 14
Anti-climax 100
Appeals, Eloquent 17, 422
Arabin, Sergeant 211, 460
Armstrong, Sergeant 211
Ashman, William N. 28
Assignments of Error 32
Attorneys, Repartee and Retort 432
Avery, Waitstill 244

Bacon, Lord 35, 245
Baldwin, Joseph G. 381, 415, 422
Ball, Justice 107, 405
Bannatyne, Lord 293
Bar, Examination for Admission to 200
Barbour, James 36
Barnes, W. H. L. 113, 451, 484
Barrington, Sir Jonah 363
Bartlett, Ichabod 325
Barton, George W. 435
Bates, Edward 37
Beach, William A. 381, 451
Begbie, Sir Matthew 512

Benedict, Kirby 460
Benjamin, Judah P. 87
Bennett, George 435
Benton, Thomas H. 39
Best, Justice 237
Black, Jeremiah S. 40, 126, 217
Blackstone, Sir William 491
Blackman, Daniel 355
Bleckley, L. E. 33, 35, 41, 51
Bond 44
George 514
Bowen, Lord 75
Boyle, Chief Justice 250
Brackenridge, Hugh H. 292
Bradley, Joseph P. 45
Brady, James T. 46, 333
Bramwell, Lord 52, 405, 510
Braxfield, Lord 48
Brevity 49
Brewer, David J. 125, 127
Brewster, Benjamin H. 54
Bribery 54
Brice, Calvin S. 55
Brougham, Lord 57, 290
Brown, David Paul 129
James T. 61
Marshall 254, 281
Browne, Irving 62
Buller, Francis 63, 196
Burbank, Justice 527
Burke, James Francis 63
Burleigh, Clarence 66
Burnand, F. C. 209
Burr, Aaron 67
Burrowes, Peter 268
Bushe, Charles Kendal 67
Butler, Benjamin F. 69, 380
Buzfuz, Sergeant 1

Cady, Daniel 73
Campbell, John A. 74
Lord 27, 219, 341, 491
St. George Tucker 524

Carpenter, Matt 169
Channell, Sergeant 501
Charge of Court 50, 52, 54, 75, 333, 388, 507
Chase, Salmon P. 74, 302
Chatham, Lord 328, 411
Chelmsford, Lord 500
Chitty, Joseph 385
Choate, Joseph H. 82
Rufus 69, 86, 87, 379, 385, 410, 472
Churchill, Lord 94
Clairborne, Justice 117
Clare, Lord 95, 151
Clarke, Richard 473
Clay, Henry 96, 200, 381, 425
Clayton, Justice 434
Cleveland, Grover 99
Climax, Anti- 100
Clonmell, Lord 240
Cockburn, Lord 101, 145, 250
Cockle, Sergeant 496
Coke, Sir Edward 85, 103
Coleman, Richard H. 103
Coleridge, Lord 104, 199, 404, 453
Colt, James D. 164
Confession 108
Conkling, Roscoe 85, 376
Contempt of Court 62, 110, 241, 322
Cooley, Thomas M. 52
Corwin, Thomas 118
Coudert, Frederick R. 119
Court, Charge of 50, 52, 54, 75, 333, 388, 507
Contempt of 62, 110, 241, 322
United States Supreme 90, 124, 225
Cox, Sergeant 127
Cross-examination 129, 394, 509
Crowle, Sergeant 434
Curran, John P. 95, 115, 148, 308, 343, 485

Davis, David 127
Davy, William 153
Day, Justice 442
William R. 155

De Facto and De Jure 156
Demurrer 62, 156, 194, 207
Denman, Lord 77, 158
Depew, Chauncey M. 82, 158
Dillard, John Henry 440
Divorce 161
Donovan, J. W. 380, 481
Dooly, John M. 165
Douglas, Stephen A. 167, 294
Dowse, Richard 168, 212
Driscoll, Timothy 372
Drummond, Thomas 169
Dudley, Justice 78

Eldon, Lord 114, 169, 220
Ellenborough, Lord 178, 338, 472
Eloquence, Tangled 179
Eloquent Appeals 17, 422
Epigram 183
Epitaph 186, 197, 331
Equity 188, 459
Erle, Lord 189
Error, Assignments of 32
Erskine, Harry 489
John 189
Lord 131, 184, 191, 382, 384
Esher, Lord 33
Eskgrove, Lord 260
Evarts, William M. 198, 453
Examination for Admission to the Bar 200
Cross- 129, 394, 509
Expert 38, 210

Fees, Statutory 212
Field, Stephen J. 214
Fitzgibbon, Lord 153
Fuller, Melville W. 127
Fullerton, William 129

Garland, A. H. 215
Garrow, Counselor 183
Gibbs, Chief Justice 77
Gibson, John Bannister 32, 217

Gloag, Sergeant 435
Gordon, Lord George 130
Gould, Justice 155
Gowns 219
Grady, Barrister 364
Graham, Justice 467
Grant, Sir William 223
Grey, Justice 358
Grier, Robert C. 224, 512
Grosscup, P. S. 225
Grundy, Felix 97

Haliburton, Thomas C. 223
Hall, William M. 220
Hallett, Justice 18
Halsbury, Lord 105
Hammond, Eli S. 75
Hampton, Moses 40
Hannen, Lord 263
Hardwicke, Lord 281
Harlan, John M. 126
Harrington, Theophilus 226, 458
Hathaway, Samuel G. 226
Hawkins, Henry 229, 366
Hearsay 232
Henry, Patrick 208, 234, 350
Hermand, Lord 291
Heywood, Samuel 187
Hill, George 318, 411, 412
Walter B. 360
Hitchcock, Peter 235
Hoar, George F. 71, 284, 433
Holland, Baron 261
Holt, Lord 236
Honyman, Justice 53
Hopkinson, Francis 157
Huddleston, Baron 143
Hunt, Ward H. 126

Index 237
Ingersoll, Robert G. 237
Intemperance 5, 25, 177, 240, 417

Jackson, Andrew 244
John J. 249
Randle 178
Jefferson, Thomas 209
Jeffrey, Francis 145, 250
Jeffreys, George 251
Jekyll, Joseph 184, 187, 253, 831, 898
Johnson, Andrew 253
Judge, The Outside 254
Judges, Repartee and Retort 438
Jurors, Competency of 255
Jury, Charge to 75
On the 45, 258
System, Defects in 264

Kames, Lord 266
Kelley, William D. 266
Kennedy, John P. 285
Kent, James 476
Kenyon, Lord 130, 267, 343
Keogh, William 211, 268
Kirkpatrick, Andrew 458
Knott, J. Proctor 269

Lachand, Maitre 20
Lamb, Counselor 196
Law 277
Lawrence, William 283
Lawyers 285
Lee, George H. 290
Legislation, ... 291
Leonard, Abiel 330
Levy, Sampson 209, 292
Liens 293
Lincoln, Abraham 141, 143, 211, 294, 481
Lockwood, Sir Frank 305
Rufus A. 432
Logic 307, 355
Loomis, A. W. 308
Lowry, Justice 330
Lumpkin, Joseph H. 33

MacNally, Leonard 308
Mansfield, Lord 41, 259, 309, 331, 340, 412, 501
Manson, Edward 133
Marshall, John 225, 314
Thomas F. 112, 319
Thomas M. 320
Martin, John I. 17
Sir Samuel 53
Mason, Jeremiah 323
Mattacks, John 206
Maule, George 76, 77, 326, 338, 466, 511
Maxims 158, 327
Maynard, Sir John 252, 343
McCallum, Justice 26
McCartney, William H. 343
McKinley, William 346
McLaws, William R. 329
McSweeny, John 23
Merritt, Thomas 348
Miller, Samuel F. 124
Mirehouse, Sergeant 348
Montague, Hill 349
Morris, Lord 351
Mortgage 202, 352
Motions 352

Naturalization 358
Neaves, Lord 337, 536
Nisbet, E. A. 360
Norbury, Lord 361, 427
Norris, Justice 52
North, Lord 364
Norton, Sir Fletcher 310
Nye, James W. 365

Oath 366
O'Connell, Daniel 58, 240, 363, 367
O'Conner, Justice 356
O'Conor, Charles 376, 379
O'Farrell, Garret 428
O'Grady, Baron 68, 377
O'Loghlen, Sir Bryan 181

O'Malley, Justice 464
O'Reilly, James 486
Oratory 378, 403
of the Affidavit 4
Oswald, James Francis 33, 385
Otis, Harrison Gray 385, 529

Page, Justice 439
Palgrave, Sir Francis 510
Park, Allan 110, 387, 404
Parker, Amasa J. 476
Parry, Sergeant 488
Parsons, Theophilus 379, 385
Perkins, Constantine 393
Eli 389
Perrot, Baron 77
Peters, John Andrew 389
Richard 390
Petigru, James Louis 219, 315
Pettifogger 21, 391
Phillips, John F. 398
Wendell 367, 401
Pleading, Special 404, 518
Pleas 50, 207, 302, 406
Plunket, Lord 332, 408, 438, 443
Pollock, Baron 409
Porter, Justice 468
Precedent 306, 410
Prentice, George D. 412
Prentiss, S. S. 350, 367, 414
Punctuation 184, 419

Quarles, J. V. 420
James 211

Raine, Sergeant 184
Randolph, John 318, 367, 422
Receipt 426
Redesdale, Lord 408, 427
Reed, Thomas B. 205, 378, 429, 436, 519
Repartee and Retort, Attorneys' 432
Judges' 438
Witnesses' 445

Reputation, General 448
Reynolds, Marcus T. 518
Ridley, Justice 467
Robertson, Lord 115
Rombauer, Justice 443
Romer, Lord Justice 411
Rose, Sir George 185
Rosekraus, Enoch H. 451
Ross, John 282
Russell, Lord 107, 452, 533
Ryan, E. G. 391

Sands, David 407
Saunders, R. M. 453
Saxe, John G. 186, 454
Scarlett, Sir James 132, 140, 489
Scates, C. W. 224
Scott, Sir Walter 457
Seal 458
Selden, John 459
Sentences 103, 229, 338, 348, 362, 460, 515
Seward, William H. 300, 303
Seymour, Sir Digby 452
Sharswood, George 33
Shaw, Lemuel 89, 471
Sherman, Roger M. 472
Sherwood, Thomas A. 330
Shyster 391
Smith, John W. 281
Spencer, Ambrose 513
Joshua A. 473
Spooner, Allen C. 356
Stanton, Edwin M. 301
Stein, Philip 440
Stenography 473
Stephen, Justice 332
Stephens, Alexander H. 474
Stevens, Thaddeus 116, 475
Stevenson, George 277
Stewart, William M. 284
Story, Joseph 49, 324, 379, 476
Stowe, Edwin H. 323

Stowell, Lord 175
Strong, William 126
Strother, Francis 476
Strout, A. A. 487
Sugden, Sir Edward 59
Sumner, Charles 479
Sutherland, Josiah 479

Tact 480
Taddy, Sergeant 110
Tangled Eloquence 179
Taylor, Colonel 18
Tenterden, Lord 490
Test, Justice 488
Testimony 491
Thatcher, George 443
Thesiger, Sir Frederick 500
Thurlow, Lord 501
Thurston, John M. 502
Tipstaff 178, 333, 438, 502
Toombs, Robert 474
Townsend, J. B. 357
Townshend, Charles 504
Train, Charles R. 164
Travers, William R. 505
Turner, Bates 437
Turney, James 465

Underwood, William H. 506
United States Supreme Court 90, 124, 225

Van Brunt, Justice 88
Van Buren, John 508
Vance, Zebulon B. 510
Verdict 510
Vest, George 399
Voorhees, Daniel W. 297

Waite, M. R. 284, 515
Walton, Charles W. 516
Walworth, R. H. 517
Ward, Baron 251

Ware, Eugene F. 334, 519
Warner, Charles Dudley 520
Webster, Daniel 78, 823, 878, 522
Westbury, Richard 186, 533
Westmoreland, Lord 179
Wetherell, Sir Charles 534
Wheeler, E. D. 357
Whiton, Edward V. 534
Wightman, Justice 442
Wigs 40
Wilkins, Charles 25, 482, 535
Will 536
Williams, Elisha 21
Wills, Justice 433
Wiltse, H. M. 396
Wirt, William 315, 316, 411, 531, 540
Witnesses, Repartee and Retort 445
Woodle, Isaac 534
Wright, George G. 248

Young, Lord 435

WIT AND HUMOR

OF

BENCH AND BAR.

Admiralty.—A Court of Inquiry into the burning of the emigrant ship *Cospatrick* at sea was held; and, after its report had been published, the following appeared in *Punch*:—

"The loss of the emigrant ship *Crossbones*, which took fire on the voyage to Australia, and was burned to the water's edge, all hands being either burnt or drowned, with the exception of one man and a boy, was the subject of an inquiry held yesterday.

"The court was composed exclusively of shipowners. Mr. Serjeant Buzfuz represented the Board of Trade and the charterers, while Mr. Phunky attended on behalf of the relatives of the lost passengers and crew.

"Mr. Serjeant Buzfuz, in opening the matter, said that they were met to inquire into the loss of the ship *Crossbones* by fire, together with nearly five hundred lives. No doubt such untoward events would occur; but, in order to meet the requirements of the Board of Trade, certain witnesses, including the survivors,—one man and a boy,—would be called to prove that no blame could be attached to any one, and that the vessel was all that could be desired.

"The survivors, who had been spending the morning at the owners' office, were then brought into court. They looked still very ill.

"James Jonah, able seaman, deposed that he was one of the crew of the *Crossbones;* he had been so ever since she was launched; she was then called the *Death's Head.* She went ashore on her first voyage, and strained herself. Was afterwards lengthened and rechristened. Everything went well till the fire broke out. Couldn't imagine how she could possibly have taken fire. The cargo was composed of pitch, tar, resin, oil, paraffine, petroleum, rum, brandy, spirits of wine, fireworks, gunpowder, etc. Did not consider that an inflammable cargo. Thought the fire must have originated in one of the water-tanks. There were quite enough boats. None of 'em were of any use. Was saved by clinging to a bit of a raft with the boy.

"Serjeant Buzfuz: And that is how you were buoyed up. (Laughter.)

"Witness: Was rescued by the Peruvian bark *Pick-Me-Up*, the captain of which treated us most kindly. Hit everybody but us over the head with belaying-pins.

"Serjeant Buzfuz was most happy to inform the court that it had been intimated to him that Her Majesty's government intended presenting the captain, in the course of a year or two, with a kaleidoscope and a tin speaking-trumpet.

"Examination resumed: Considered the *Crossbones* one of the safest ships afloat until she was lost. Would not have the slightest objection to have gone to sea in her again, with the same cargo, provided he was saved, and it was made worth his while. Considered lucifer matches on the top of a powder-barrel or petroleum cask rather ornamental than otherwise.

"Mr. Phunky was proceeding to cross-examine the witness, when the court adjourned for lunch.

"On its reassembling, Mr. Serjeant Buzfuz submitted to the court that Mr. Phunky had no *locus standi.*

"Mr. Phunky said that he appeared for certain persons who were not quite satisfied.

"Serjeant Buzfuz: Some people are never satisfied.

"Mr. Phunky: I mean to say that they are not satisfied that the vessel was well found.

"Serjeant Buzfuz: How could she have been well 'found' when she was lost? (Much laughter, which was not suppressed.)

"The boy who was saved was then called, and corroborated in every particular the evidence of the former witness. Thought the fire might have originated in the foretop-gallant mast. Felt very hot after climbing up there.

"An experienced stevedore was then called by Mr. Phunky, and said that he considered the cargo a most dangerous one; when he was stopped by Mr. Serjeant Buzfuz, who called the attention of the court to the fact that witness dropped his 'H's,' and was evidently a most objectionable and untrustworthy person.

"The court allowed the objection, and the witness was ordered to stand down.

"The learned serjeant then said that it appeared to him quite unnecessary to address the court any further.

"The court, after consulting for two minutes and three-quarters, said that it was certainly most unfortunate that the majority — in fact, a large majority — of the passengers and crew of the *Crossbones* should have met with such a disagreeable fate; but it could not be helped. Everything that science, experience, and skill, as well as petroleum, pitch, tar, gunpowder, spirits, and other powerful agents, could do, had been done; and the court only hoped that the owners were fully insured. If the unfortunate captain were before them, the court would have immedi-

ately granted him a new certificate, in case his old one should have been burnt. The court was unanimously of the opinion that the cargo was of a most harmless description, and properly stowed. They would, however, recommend, that, in future, the boats should not be launched keel-upwards; and that, when Captain Shaw returns from Egypt, he should be consulted upon the best method of suddenly extinguishing ignited spirits and petroleum, as well as fireworks.

"Mr. Serjeant Buzfuz entirely concurred with the court, and was happy to say that the owners were more than fully insured.

"The inquiry then terminated."

Affidavit, Oratory of.— The oratory of the affidavit provokes many a smile. An Irishman swearing the peace against his three sons concluded his affidavit: "And this deponent further saith, that the only one of his children who showed him any real affection was his youngest son, Larry, for he never struck him when he was down."

The following affidavit was filed in the Court of Common Pleas, in Dublin, in 1822:

"And this deponent farther saith, that on arriving at the house of the said defendant, situate in the county of Galway aforesaid, for the purpose of personally serving him with the said writ, he, the said deponent, knocked three several times at the outer, commonly called the hall, door, but could not obtain admittance; whereupon this deponent was proceeding to knock a fourth time, when a man to this deponent unknown, holding in his hands a musket or blunderbuss, loaded with balls or slugs, as this deponent has since heard and verily believes, appeared at one of the upper windows of said house, and, presenting said musket or blunderbuss at this deponent, threatened

that, if said deponent did not instantly retire, he would send his, this deponent's, soul to the lower regions, which this deponent verily believes he would have done, had not this deponent precipitately escaped."

A negro came before a justice of the peace and signed a pledge, promising to give up the use of all intoxicating liquors. Ten days afterwards the Judge met him, and, greatly to his astonishment, found him a good deal under the influence of liquor.

"Why, Erasmus," cried the Judge, "God bless me! how is this, and after your solemn affidavit, too? You have broken your oath, Erasmus."

"Not at all, Jedge,— not at all, sir!" cried Erasmus, with alacrity. "De affidavy stands as when fust sworn and subscribed to; but bein' as you know, Jedge, a man of Websterian education, I have added a few trifling codicils to de original dockerment."

"Codicils, Erasmus,— what do you mean by codicils?

"Well, Jedge, I'll explain; I'll give dem codicils to you in de regular order. I've got de dockerment right here, and I've never let it go out ob my hands since I got it;" and Erasmus drew from over his heart the precious paper. With a grand flourish he read: "Codicil de fust — Dis codicil is to certify dat de meanin' and intent of the above insterment is hereby so moderfied an' set aside as to allow de affiant de triflin' indulgence of one cocktail befo' he go to breakfas'."

"Well, Jedge," said Erasmus, lifting his eyes from the paper, "dat codicil appear ekal to the requirement of de subscriber for about fo' days; den we had," casting his eyes upon the paper, "Codicil de secun'— De above affidavy an' codicil is hereby affirm an' am to remain in full fo'ce an' effec', 'ceptin' sich sections, claws, an' parts of clawses as would conflic' wid de allowance to de affiant

of a appetizer before each meal, bein' tree drinks per diem, be de same more or less."

Here Erasmus again lifted his eyes from the document, and explained as follows:

"On dis las' codicil de subscriber existed in tol'able comfort about fo' mo' days, when it not bein' found to rise to de hight of all demands, I felt obleged, Jedge, to add: 'Codicil de Third — All de above original dockerment an' codicils are hereby proclaimed to be of full fo'ce an' effec', pervided dat no part of dare contents be so construed as to interfere wid de inherin' right of de undersigned affiant and codicilist to partake of some sich suitable stimerlant as shall, in his judgment, be deemed necessary to de decent and proper arousin' of de dorman' energies of his phisical an' mental constitution.' "

"And is this the last of the codicils, Erasmus?"

"It's de finis, Jedge. It appears to fill all de 'quirements, an' is ekal to all de 'mergencies dat has yet arose."

The affidavit of the Troy policeman is a gem: "The prisoner sat upon me, calling me an ass, a precious dolt, a scare-crow, a ragamuffin, and idiot — all of which I certify to be true."

An information, after charging certain defendants with the larceny of two pigs and six pigeons, continued: "The prosecutor suspecting the above defendants, and procuring a search-warrant, went to their homes and found the fowls under the bed, in which the defendants were sleeping with their throats cut and partially plucked."

An Irish witness, having been "sworn to the truth" of a written statement he had made regarding an attempted murder, afterwards confessed that the major part of it was false. "Did you not swear to the truth of it?" he was asked. "Yes! but I didn't swear to the loyin' part. I'll take me oath on that, sorr!"

Alibi.—A witty Dublin barrister, being asked for a definition of alibi, replied: "It is *a lie by* which criminals escape punishment."

An incident in Watsonville, California, illustrates the old saw about the fellow who tries to be his own lawyer. Mike Murphy was arrested for brutally assaulting a Chinaman, and gave bail for a hearing the next day. Engaging a lawyer, the latter advised him that he had no defence.

"But," said Mike, "in New York the byes had something they used whin in trouble. I think they called it an allybye. Can't you thry that?"

"I hardly care to try the case, but you can try it yourself. Have you a friend you can call to prove the alibi?

"Yes; Tim Maginnis."

"Well, after the Chinaman has presented his case, you call Maginnis, and be sure to ask him:

"'*Mr. Maginnis, where was I when the Chinaman was struck in front of the hotel?*'"

At the hearing, the Chinaman and his witnesses having testified to the assault, Mike put Maginnis on the stand, and proceeded to examine him.

"What's your name?"

"Tim Maginnis, sor."

"What's your occupation?"

"Hod-carrier, sor."

"Mishter Maginnis, do you understand the nature of an oath?"

"Yes, sor; I tink I do."

"Well, sor, if you undershtand the nature of an oath, will ye plaze tell the magisthrate *where I was when I sthruck the Chinyman in front of the hotel?*"

Mike's alibi went up in the air, and a salty fine on the record.

Sir Frank Lockwood got a prisoner off by proving an alibi. Some time afterward the Judge met him and said, "Well, Lockwood, that was a very good alibi."

"Yes, my Lord, I had three offered me, and I think I selected the best."

When the Ku Klux troubles were at their height in South Carolina, a prominent farmer in one of the inland counties was on trial before the United States court for complicity in certain outrages committed upon colored people. Public sentiment was, of course, strongly on his side, and all his neighbors and friends were on hand to see him cleared, if possible. The United States district attorney was a Yankee "carpet-bagger," as smart as a whip, and one who knew with whom he had to deal.

The defendant went on the stand and told a very plausible story. Then came the cross-examination.

"Now, Mr. Jones," said the district attorney, "where were you on the night the six colored men were killed at Unionville?"

"That night, suh? Well, suh, that night I was over in Spa'tansburg county a-buyin' of some cattle, suh."

"And where were you the night the colored women were tied up and lashed at Jonesville?"

"That night, suh? Well, suh, that night I was on the aidge of Georgia a-sellin' cotton, suh."

"And where were you on the night that the four colored men were killed at Tompkinsville?"

"Well, that night, suh, I was down in Edgefield county a-visitin' an uncle of mine who was mighty sick, suh."

"Well, Mr. Jones, you have given very straightforward answers to my questions. I have only two more to ask you. Where were you the night the two colored men were killed at Batestown?"

"That night, suh? Well, suh, that night I was up in the aidge of No'th Ca'lina attendin' a weddin,' suh."

"Mr. Jones, where were you the night Cain killed Abel?"

"That night, suh?" said the defendant, slightly puzzled but still unabashed, "why, let me see. Wasn't that about the year 1870, suh?"

The attorney nodded gravely, and there was a hush in the court-room.

"That night, suh, I was at a fishin' frolic on the Broad river."

"That will do," said the district attorney, and court adjourned for dinner. The defendant's son pushed up and took his father to one side.

"Pop," said he, "I hate to say it, but you are the biggest fool in South Ca'lina. Hyeh you just swore that Cain killed Abel in 1870, when any common fool knows it happened in the first year of the wah."

And Jones went for a term of years to the United States prison at Albany, N. Y.

In the Quarter Sessions Court of Schuylkill county, Pennsylvania, five Hibernians were on trial, charged with riot and assault, with intent to kill. The commonwealth had made out a strong case, and rested. The defense was an alibi.

By the showing of the prosecution the riot commenced after ten o'clock at night. A witness for the defense testified that Dennis, one of the accused, was at home and in bed with him, before eight o'clock on the evening of the affray, and never left it until the row was over — a rather improbable story of two Irishmen within sound of a "nate little bit of a fight."

"How do you know it was before eight o'clock?" asked the district attorney.

"Sure we had a clock in the house."

"And did the clock strike eight after Dennis came in?"

"Well, no; the clock wasn't shtriking at that time."

"What was the matter with the clock?"

"It was out of order and not going for a few days."

"Then, if the clock was not going, how do you know that Dennis was in before eight o'clock?"

"*Well, I know that he was in before the time when the clock used to be shtriking eight when it did shtrike!*" triumphantly answered the witness.

This was a clincher; poor Dennis was convicted.

In Kentucky, for some years after the rebellion, courage exhibited and scars received in the service of the lost cause were, as a rule, a sure passport to public office. The element of capacity being thus minimized, some brave but incompetent heroes reached official positions unattainable in less troublous times. One of these, having a smattering of law and a fervid oratory, was elected district attorney. In a murder case, with a plea of "not guilty," the prisoner relied on evidence showing an alibi. In closing his argument the district attorney was especially vehement: "Gentlemen of the jury," said he, "the prisoner is trying to escape the law by pleading an alibi. What is an alibi? If I had a law dictionary I would read you the definition, but in its absence I can repeat to you the substance of it. An alibi, as I recollect it, is where a man charged with a crime proves that he was somewhere else at the very time he committed it."

The defense was an alibi, and the district attorney was cross-examining one of the defendant's witnesses:

"Are you sure that you saw the defendant in Gainesville on the seventeenth of the month?"

"Yes," said the witness, "it was the seventeenth."

"Now, remember," continued the attorney, with increasing solemnity, "you are under oath. How do you know it was the seventeenth?"

"Because the day before ——"

"Be careful what you say. Go on."

"Because the day before was the sixteenth, and the day after was the eighteenth."

Allen, John.— Allen, the witty southern gentleman from Mississippi, tells how he came to be a profound lawyer. "I want to tell you of the greatest legal victory of my life," said he to a party of congressmen swapping yarns in the cloak-room of the House. "It was down in Tupelo, just after the war. I was at that time a practicing lawyer,— that is, I practiced when I had any cases to practice with. One day 'Uncle' Pompey, a negro of the settlement, came into my office and said:

'Mars John, I wants you to cl'ar me. I'se gwine to be 'rested for stealin' two hams outen de cross-road store.'

'Well, Pompey, did you really steal the hams?'

'Mars John, I just took 'em.'

'Did any one see you?'

'Yas, boss,' said the old negro disconsolately, 'two ole white buckrats.'

'Well, Pompey,' I replied, 'I can't do anything for you under the circumstances.'

'Now, Mars John,' said old Pompey, 'here's ten dollars. I jist want you to try.'

"Well, I consented to try," said Allen. "The case was to be heard before an old magistrate named Johnson. He was totally uneducated, and was moreover a perfect dictator. No negro ever came before him who was not fined the maximum penalty. The magistrate heard the case. That Pompey stole the hams there could be no doubt from the testimony. I did not cross-examine the

witnesses; but when the testimony was all in, I arose, and in my most dignified manner addressed the magistrate: 'May it please your honor, it would be useless for me to argue the position my client holds, and before one who would adorn the Superior if not the Supreme bench of this grand old commonwealth; and I may say that those who know you best say that you would grace even the Supreme Court of the United States,— the highest tribunal in the land. It will be useless to dwell upon the testimony; you have heard it, and know the case as well as I do. However, it may not be out of order for me to call your honor's attention to a short passage in the old English law, which clearly decides this case, and which for the moment your honor may have forgotten.'

"Then I fished down into my pocket and drew forth, with a great flourish, an old copy of 'Julius Cæsar.' I opened it with great dignity, and read the line — familiar to every school-boy —'*Omnia Gallia in partes tres divisa est.*' 'That decides the case,' said I, throwing the book upon the table. 'That clearly acquits the defendant.'

"With great dignity and solemnity I took my seat. The old magistrate was completely nonplussed. He looked at me a moment quizzically, and scratched his head; then, turning to Pompey, he raised himself to his full height, and said: 'Pompey, I know you stole them hams, but by the ingenuity of your lawyer, I've got to let you go. Git out! and if you ever come here again, lawyer or no lawyer, you git six months.'"

Allen gives the characteristic reason why he never touches liquor: "Of course, if I drank at all, I should have to indulge while stumping my district. Now, you just think what would happen to me if, while on a stumping tour, I should take a few drinks and then attempt to say: 'Fellow-citizens of Itawamba, or Oktibbha, or Tishomingo county.' My finish could be easily imagined."

Allen and Mills were billed to speak in Connecticut. "The posters," says Allen, "always read

HON. ROGER Q. MILLS

in great big type, 'and others' in small type. I was 'and others.' At one town Mills missed his train and I had to go alone. The committee came down to the train with a brass band and a lot of sashes and lugs. When the chairman of the committee found Mills was not there he yelled out of the carriage window: 'You needn't play, boys, Mills hain't here.'

"At the hall the presiding officer remarked to chirk me up a little: 'The orjence was a-spectin' Mills 'n 'll be disappointed, but I'll interjuce ye.'

'Ladees an' gentlemen, an' standerd barrers of the untarrified Democracy (cheers), you will all jine me in the sense of disappointment we feel at the unavoidable absence of the Honnerble Roger Q. Mills (cheers), who wuz to hev addressed us to-night. But his place will no doubt be ably filled by the Honnerble—er—what is your name?"

Allen is the only ex-private of the Confederate army who has ever been elected and re-elected to Congress. And yet Allen has his moments of repining. One of these came at a meeting of Confederate veterans, to celebrate Robert E. Lee's birthday. There he found himself surrounded by Confederate generals and colonels and majors, and not a man who acknowledged a less distinctive title did he discover, and he naturally felt lonesome.

He was called on to give an address, and the topic suggested was "The Mistakes of the War." This was a big subject, and Private Allen at first hesitated, but he speedily rose to the occasion, and delivered a brief but pithy address, as follows: "You have called on me to speak on 'The Mistakes of the War.' I do not feel as though it would

be profitable, or, indeed, necessary, for me to go into the subject at length in this presence. When I look around upon this brilliant assemblage of generals and colonels and majors, it seems to me sufficient to point out one of the mistakes of the war, and if it was a fatal mistake I was not responsible for it. I was only a private." There was a pause when the orator sat down, but the assembled generals and colonels quickly saw the point, and he was heartily cheered.

Althorp, Lord.— What is an archdeacon? Lord Althorp one day, on proposing a vote of 400 pounds a year for the salary of the Archdeacon of Bengal, was nonplussed by the awkward inquisitiveness of Joseph Hume, who demanded, "What are the duties of an archdeacon?" He sent one of the subordinate occupants of the Treasury Bench to the other house to obtain an answer to the question from one of the bishops. The messenger first met with Archbishop Vernon Harcourt, who described an archdeacon as "aide-de-camp to the bishop," and then with Bishop Copleston, of Llandaff, who said, "The archdeacon is *oculus episcopi*." Lord Althorp, however, declared that neither of these explanations would satisfy the House. "Go," he said, "and ask the Bishop of London (Blomfield); he is a straightforward man, and will give you a plain answer." To the Bishop of London accordingly the messenger went, and repeated the question, "What is an archdeacon?" "An archdeacon?" replied the Bishop, in his quick way; "an archdeacon is an ecclesiastical officer who performs archidiaconal functions."

Anomalies.— An English judge sums up the history and present stage of much of our law as "a thing of shreds and patches." And this definition explains the

origin of many absurdities — humorously absurd — existing in our law of to-day. Law reformers, judicial and legislative, should note the following illustrations:

A. owes B. an undisputed debt of £100. After much pressure he comes to B., and, dilating on his own misfortunes in particular and the hard times in general, offers him £80 in full satisfaction. B., partly through sympathy, and partly because having written off the amount as a "bad debt" he is only too glad to get anything, accedes to these terms. Most people would think that here was an end to the matter. It all depends, strangely enough, on the way in which the money is paid. If the amount is paid in gold or bank-notes, there is no "consideration" for B. agreeing to accept less than the full amount due, and, therefore, if he afterwards repents of his bargain, he can sue A. for the remaining £20 in spite of his promise to be satisfied with £80. And yet if an old knife, a rusty nail, or some other thing, however trifling, is "thrown in," then B. is bound by his agreement to take the lesser sum in full discharge, for in this humorously-absurd quibbling way the legal theory of "consideration" is duly satisfied.

Let us suppose that a Mr. Smith holds two houses under one lease from a Mr. Brown, and assigns one of them to a Mr. Robinson. If Mr. Smith omits to pay his rent, or breaks some other covenant in the lease, Mr. Brown — the superior landlord — can "distrain" not only on Mr. Smith's house, but on poor Mr. Robinson's as well, though he may be a model tenant.

A person buys goods, pays for them, and gets a receipt. The tradesman sends in his bill a second time. The purchaser protests that he has paid, but cannot find the receipt. Accordingly, the tradesman brings an action and wins. Soon after this the missing receipt is found. And

yet the purchaser cannot by law bring a new action to recover the amount he has paid as the result of the first action, unless he can prove actual fraud on the part of the tradesman. And why is this? Because, according to the legal maxim, "It is to the interest of the state that there should be some finality to litigation." It certainly is not, in this instance, "to the interest" of the purchaser.

The solemnity and force given to "seals" and the rule in Shelley's case are not much less absurd.

The great remedy for all these evils of our law is less regard for ancient precedent and greater regard for common sense — more modern instances and fewer ancient saws.

An anomalous freak is exhibited in the record of a case tried in a Dublin court. The plaintiff sued for damages for injuries sustained by falling into a cellar, the grating of which had been left open by the defendant. The plaintiff, in his fall, broke the grating, and for this damage to his property the defendant claimed five pounds. Plaintiff's counsel said that the audacity of this demand had never been paralleled in his experience, except in one instance; and this exceptional case he proceeded to relate for the benefit of the jury. There lived, he said, at one time in the fashionable quarter of that city an eminent lawyer, who afterwards came to occupy a position on the judicial bench. He was a man of high professional attainments, but of testy and irritable temper. His next-door neighbor was a retired major, noted for the eccentricity of his habits. Between the two there was anything but friendly feeling, and they did all in their power to annoy and harass each other. One night, memorable in Ireland as "the night of the great storm," the major's chimneys were blown down. Crash they went through the roof of the lawyer's house, and thence down through

floor after floor, carrying havoc in their course. The man of law was in no good humor as he contemplated the destruction; and what made matters worse was that it was the major's chimney that had occasioned the wreck. His mind was actively engaged in devising some process by which he could get satisfaction from his arch-enemy, when a missive arrived from the latter, couched as follows:

"Send me back my bricks immediately, or I'll put the matter into the hands of an attorney."

Appeals, Eloquent.—Col. John I. Martin, of Missouri, who won some national fame as sergeant-at-arms of the Democratic National Convention in 1896, used to be a prominent figure at the bar known as the "Four Courts" in St. Louis. He once had a client—a colored man—who was charged with having stolen a pair of trousers. The evidence being all in, the Colonel approached the jury rail, and, running his fingers through his hair, sighing gravely, and assuming a striking attitude, spoke in this strain:

"Gentlemen of the jury:—On the lone shore of the Pacific Ocean in a humble cot dwelt the wife of a brave sailor. In that land of sunshine and flowers, where the voice of the bluejay never is silent and where the golden sea laughs in the glad gorgeousness of the god of day, this noble woman lived her little round of daily life. At eve she often stood on the white beach and bent her gaze over the blue expanse, as if to catch a glimpse of the white sail of her husband's ship. And in the still watches of the night, when the dismal cry of the stormy petrel was borne on the wings of the wind to that mother's ears, she would clasp her babe to her breast and pray God, gentlemen, pray God to protect her brave sailor husband, who was battling the waves to win from their yeasty froth sustenance for her and her darling child.

"One night a great storm arose on the sea, and the mighty wind, smiting the placid bosom of the Pacific, lashed its waters into the fury of the bottomless pit itself. Ever and anon from the little window of the cottage shone forth a light casting its fitful glare on the storm-ridden sea. The night passed in terror for the watching woman, and in the morning when the glad sun came forth to smile on the work of destruction, there on the white beach lay the body of that brave sailor husband, stiff and stark in death. Oh, my friends, what a dawn! What a day!"

The jury was in tears, and Col. Martin dashed away several briny drops from his flowing moustache. Then he faced the jury and said thunderously:

"Now, gentlemen, the people claim that my client stole these pants. We deny it!"

The defendant was given two years in the penitentiary by the jury. When the verdict came in, and the jury was discharged, a friend of Martin approached him and said:

"Colonel, that was a pretty good speech you made, but what has the Pacific slope, the dismal cry of the stormy petrel, and the wings of the wind got to do with this colored boy and that pair of pants?"

"To tell you the truth, it hasn't got anything at all to do with them. But don't you know that the first canon of forensic oratory, when you are making a defence, is to say something that will rivet the attention of the jury?"

When Colorado was organized as a territory, Judge Hallett was appointed United States judge. Spanish then was the language of the Mexican greasers and of nearly everybody else. The judge early learned to despise Spanish, and made a rule against its use in court.

In Trinidad, Colonel Taylor, of the bar, was retained for the defence in a case where no defence was possible. The place was full of witnesses who had seen the deed

done, whatever it may have been, for that is unimportant. The prosecuting attorney put on witness after witness to prove the facts. He made a perfect case and demanded that full punishment be inflicted. It was a difficult situation for Taylor. His client was guilty beyond a doubt; cross-examination of the witnesses could only make that fact more distinct, and for that reason he did nothing so foolish. The case was altogether Spanish. Criminal, witnesses, audience, there were not six words of English in the whole outfit. The interpreter had been called on for every word which had gone back and forth throughout the trial. Taylor arose to make his plea. He surveyed the cluster of dark faces which filled the shed in which the court was sitting.

"*Caballeros*," he began, "*caballeros del jurado* ——"

There was a loud whacking of the gavel by Judge Hallett as soon as he caught the sound of the language which he despised so heartily.

"Mr. Taylor, Mr. Taylor," he shouted, "as a member of the bar of this court, you must be aware that all its transactions must be conducted in the English language, the language of this country. If I thought that you were using Spanish maliciously I should punish you soundly for such contempt of this court. You will address this court of the United States in United States and in no other speech, language or dialect."

"I bow to Your Honor's ruling," continued Taylor, as he resumed his plea, but with English and with the assistance of the interpreter. He told the greaser jury how the sight of their proud Castilian lineaments had caused him to forget a rule of the court and to address them in the sonorous speech of Spain, from which their forefathers came. He obeyed the judge, but he felt the restraint of having to make his pleading through the as-

sistance of the interpreter. It was a simple matter which he could set right in a few sentences of their own language, but he feared that in English he could not do so well, yet he hoped that they would not see a fellow-citizen punished solely for the reason that his advocate was not allowed to address a Spanish jury in their own tongue. Harping on this theme, he avoided any discussion of the evidence which bore so heavily on his client, and in his peroration he paid a glowing tribute to the language of Don Quixote and Queen Isabella. This done, he fled from the spot and was not seen until court had arisen for the day.

When they next met, the prosecuting attorney wanted to know why he had not been on hand to receive congratulations on the acquittal of his client.

"They set him free without a stain on his character and without leaving their seats, and it was all due to your Spanish. Why didn't you wait? You're the hero of the whole population."

"That's just the trouble," replied Taylor. "I knew they'd acquit the thief and then they'd fall all over me with their Spanish. I just naturally had to hide. Those three words that Judge Hallett choked me off on are all the Spanish I ever knew in my life. I couldn't afford to be congratulated."

Maitre Lachand, the famous advocate, was perhaps the greatest master of comedy in France, and not a few eminent actors envied him his marvelous powers of mimicry.

He was once employed to defend a murderer against whom the facts were hopelessly clear. When his pathetic appeals and his tears — which were always at call when he pleaded before a country jury — failed to touch his stolid audience, he resorted to the most impudent pieces of trickery.

Thrusting his moistened white handkerchief into his pocket, he demanded if the jurors were men, if they had human hearts, if they could bring themselves to condemn a fellow-man like the accused, whom he had credited with all sorts of chivalrous, if not saintly, merits. His eloquence was not merely fruitless, but the jury responded to it at first with uneasy shuffling, then with biting lips, and finally with loud and uncontrolled bursts of laughter.

Lachand, while flinging about his hands, had intentionally dipped his fingers into the great ink-pot in front of him, and as he drew his right hand across his forehead, as if in agony of despair at the certain fate of the accused, he left upon his brow an enormous black mark like a crescent moon, and drew other black traces down his cheeks as he put his fingers to his eyes to dash away the tears.

Feigning high moral indignation at their conduct, he continued:

"You are about to decide whether one of your fellow-men shall be thrust by you out of the ranks of the living, and you choose such a moment for indulging in cruel and thoughtless laughter. Is this extravagant mirth a fitting mood in which to decide whether a man shall or shall not die?"

The man was acquitted.

Elisha Williams, of New York, was somewhat noted for his eloquence. On one occasion he made a plea which produced a marked effect upon the jury and the court. His legal opponent was a mere pettifogger, but shrewd, and, as it so happened, succeeded in laying out the eminent counselor. When Williams had closed his eloquent appeal, the pettifogger said:

"Gentlemen of the jury, and your honor: I should despair of the triumph of my client in this case, after the eloquent appeal of the learned counsel, but for the fact

that common law is common sense. No man could like better the piece which the learned gentleman has spoke than what I like the piece. He spoke it good. I've heered him give it four times afore — once at Scodak, in a burglary case; once at Kiak, on a suspicion o' stealing; once at Poughkeepsie, in a murder case; and the next time at Kakiak, about the man who was catched counterfeiting. Well, he always spoke it good, but this time he's really beat himself. But what does it all amount to, gentlemen of the jury? That is the question, and you can answer it as well as I kin, and better tew!"

And so they did, and quickly, by a verdict for the pettifogger's client.

An eloquent Milwaukee attorney, defending a handsome young woman accused of stealing from a large unoccupied dwelling in the night time, spoke in conclusion: "Gentlemen of the jury, I am done. When I gaze with enraptured eyes on the matchless beauty of this peerless virgin, on whose resplendent charms suspicion never dared to breathe — when I behold her radiant in this glorious bloom of luscious loveliness, which angelic sweetness might envy, but could not eclipse — before which the star on the brow of the night grows pale, and the diamonds of Brazil are dim, and then reflect upon the utter madness and folly of supposing that so much beauty would expose itself to the terrors of an empty building, in the cold, damp, and dead of the night, when innocence like hers is hiding itself amid the snowy pillows of repose; gentlemen of the jury, my feelings are too overpowering for expression, and I throw her into your arms for protection against this foul charge, which the outrageous malice of a disappointed scoundrel has invented to blast the fair name of this lovely maiden, whose smile shall be the reward of the verdict which I know you will give!" The jury acquitted her.

John McSweeny, a famous lawyer, was engaged as counsel for the defence in a provincial murder case. The case looked hopeless. McSweeny submitted no evidence for the defence. Believing that the trial was won, the State's attorney made only a few perfunctory remarks in conclusion. Then the great leader began in a conversational tone. No reference was made to the murder, but McSweeny drew a vivid picture of a pretty country cottage, a loving wife preparing supper, three ruddy-faced youngsters looking up the road to see "papa" coming home to supper. Suddenly the speaker stopped. Drawing himself up to his full height, he exclaimed, in a tone which startled the whole court-room: —

"Gentlemen, you must send him home to them!"

A roar of applause followed, and one grizzled old juror blurted out: —

"We'll do it, sir; we'll do it!"

McSweeny instantly stopped and sat down. The jury brought in a verdict of acquittal, without leaving their seats. The prisoner, with tears streaming down his cheeks, wrung his counsel's hands, and thanked him again and again. But between his sobs he managed to say: —

"No other man in the world could have done that! Why, sir, I have no wife or children! I never even was married, you know!"

A western attorney relates an interesting experience in his professional career:

"The first case in which I was engaged as counsel was *Wilgins v. Wiggins*. The plaintiff was represented by an eloquent, generous-hearted lawyer, who rarely failed to carry court and jury; but his early education was deficient, and he often slipped up on the King's English. He opened the case to the jury by saying that his client,

on a certain day named in the petition, was drunk, and that the defendant, taking advantage of his condition, cheated him in a horse trade, to his damage one hundred dollars. Plaintiff's witnesses testified that, on the day named, they saw the plaintiff and defendant together at twelve o'clock; that they were both under the influence of liquor, the plaintiff particularly, so much so that he could not distinguish his own horse; that at two o'clock the same day they saw both parties together again, when they acknowledged that a trade had been made in the interval, and the plaintiff was then so far gone, from frequently imbibing during the day, that he could not get on his horse. Here the plaintiff's counsel, after proving the difference in the value of the horses, rested his case, and the defendant, Wiggins, being minus witnesses to prove anything to his advantage, I had to close his side of the case also.

I proceeded to argue the case to the jury, and a trying time it was. It was my first appearance in court; the opposing counsel's reputation as a lawyer made him formidable not only to me, but to all the lawyers of the circuit, and the case I considered hopeless. But an idea struck me, and I rallied enough courage to urge the position that the plaintiff had failed to show he was drunk at the precise time the alleged trade was made; that all he had proved was that he was drunk before and after the trade, which, I contended, did not affect the contract, and that plaintiff would have to prove the drunkenness existed at the very time the trade was made, to enable him to recover. I considered this position a legal one, and congratulated myself upon the effect my argument would have in controlling the verdict of the jury. But alas, my feeling of triumph was short lived! for my position and argument appeared to rouse my old friend on the oppo-

site side, and he proceeded to demolish both in the following manner:

"Gentlemen of the jury, the argument of the gentleman on the opposite side reminds me of a position which a gentleman took in a case which I once saw tried in Kentucky. There was two men lived neighbors thar, that didn't like each other. One had a very valuable dog; the other shot the dog, out of which a lawsuit rose. The case came on; the plaintiff's witness swore he saw the defendant standin' on a little eminence in the woods with a gun in his hand; he saw the plaintiff's dog trottin' through the woods at the distance of about thirty yards from the defendant; he saw the defendant raise the gun; he saw the powder flash in the pan; he heard the explosion of the gun; he saw the dog fall, and yet the counsel on the opposite side asked, 'Whar is the man what saw the bullit hit the dog?'

"'Now, then, gentlemen of the jury, we have proved that the plaintiff was so drunk just before the swap was made that he didn't know his own hoss, and that just after the swap was made he was so drunk he couldn't git on his own hoss, and yet the gentleman on the opposite side insists that we must prove that he was drunk at the very time the swap was made, or in other words he asks 'Whar is the man that saw the bullit hit the dog?'

"The jury thought I was asking too much, and gave a verdict for the plaintiff."

An attorney blessed with a keen sense of the ludicrous can often extract a verdict from an appreciative jury by the aid even of a single joke. The famous Sergeant Wilkins was once defending a breach of promise case, when the counsel for the plaintiff made a most eloquent appeal for his suffering and injured client, closing with the words, "And, gentlemen, she is an orphan!"

The effect of this was so successful that several of the intelligent jury gave convincing signs to the initiated of unpleasantly sentimental damages against the defendant. But Wilkins was equal to the occasion. When he rose to his feet, he laid his hand upon a waistcoat from beneath which, to him, the toes of his well-blacked Wellingtons were quite invisible, and, in a voice husky with good living and good humor, began his speech with, "Gentlemen of the jury, I also am an orphan!" The effect was irresistible, and the sentimental counsel was laughed out of court.

When Judge McCallum, of Iowa, was practicing at the bar, one of his first cases was before a justice who was extremely harsh with criminals. The weakness of the old Puritan was his veneration for veterans of the war. McCallum had fought four years. His client was a thief.

"The only thing I can do for you," said McCallum, "is to implore the mercy of the court. When you go on the stand tell the whole truth."

The man had stolen a cow, killed it, sold the hide and taken the beef home to his family, which was really suffering for the necessaries of life.

"Now, your honor," said McCallum, "the defence has no witnesses. My client is guilty. He has hid nothing from this court." Then turning to the prisoner, as if the fact had nearly escaped him, McCallum said:

"By the way, you were a soldier in the late war, were you not?"

"Yes, sir."

"Weren't you at Gettysburg?"

"Yes, sir."

"So was I. And you were in other historic battles, fighting for your country, while your wife and family suffered from want at home?"

"Yes, sir."

The prosecution at this point saw the way the case was drifting, and attempted to ridicule the "old soldier" defence, as the prosecuting attorney named it. The effect on the old justice was to arouse all his loyalty and indignation:

"Enough of this," said he, bringing his fist down hard on the desk in front of him. "No soldier who has shed his best blood for his country, not even if he be a criminal, can be reviled in my presence. The prisoner is discharged. And, sir, when you are suffering for the necessaries of life again, come to me."

The joke was too good to keep. McCallum told the justice one day that the old soldier was an ex-Confederate, but he never again practiced in that court.

The following impromptu verse on one of Lord-Advocate Campbell's eloquent arguments in the Court of Sessions is a bright bit of portraiture:

He clenched his pamphlets in his fist,
  He quoted and he hinted,
Till in a declamation mist,
  His argument he tint it;
He gaped for't, he graped for't,
  He fand it was awa', man;
But what his common sense came short,
  He eked it out wi' law, man.

"Gentlemen of the jury," said a down-east attorney, "it is with feelings of no ordinary emotion that I rise to defend my injured client from the attacks which have been made against his hitherto unapproachable character. I feel, gentlemen, that although I am a great deal smarter than any of you, even the judge himself, yet I am utterly unable to present this case in that magnanimous and heart-rending light which its importance demands; but I trust, gentlemen, that whatever I may lack in presenting it will be at once supplied by your own natural good sense and discernment.

"The counsel for the prosecution will undoubtedly attempt to heave dust into your eyes. He will tell you that his client is pre-eminently a man of function, and one who would scorn to bring an action for the mere gratification of a personal curiosity. But, gentlemen, let me cautionate you how to rely on such specious reasoning like this. I myself apprehend that if you could look into that man's heart, you would see there such a picture of moral turpitude and base ingratitude as never before exhibited since the Niagara Fall.

"Now, gentlemen, I wish to reason with you for a few moments, and see if I can't warp your judgments into bringing in a verdict for my unfortunate client, and then I will fetch my argument to a close. Here we have a poor man with a numerous wife and child, fetched up and arranged before an intelligent jury, charged with hooking — yes, ignominiously hooking — five quarts of hard cider. You, gentlemen, have been in the same predicament and know how to feel for my unfortunate client; and I trust, gentlemen, that you will not allow the gushings of your sympathizing natures to be squenched by the surreptitious arguments of my ignorant opponent on the other side.

"Now, gentlemen, in the beautiful language of Shakespeare, if you are sure of the guilt of the prisoner, it is your duty to lean on the side of justice and bring him in innocent."

Ashman, William N.— Judge Ashman, of Philadelphia — a jurist of rare ability,— possesses a humor whose charming quality appears in the following quotation from his response to the toast, *The Bar*, delivered at the banquet of the Pennsylvania Bar Association, in July, 1895:

Mr. Toast-Master and Gentlemen of the Bar Associa-

tion: I am glad for one that the advent of this Association has made this toast possible. We have a great many bars in Pennsylvania — and I am not alluding to the bars which are recognized by the Brooks License Law, with which some of my friends here are familiar — but we have now, and for the first time, a Bar. And in this presence, with these august representatives of the Bar of Pennsylvania, I have in my diffidence to call to my aid a little piece of philosophy, very homely, which has stood me in tolerably good stead on some lesser occasions. A young man was once desirous to call upon a young lady with whom he had a somewhat slight acquaintance; and, like the speaker, he was cursed with a certain amount of timidity which it was very difficult to overcome; and he hesitated, because he feared that the young lady might not receive him with the utmost affability. He happened to speak of his dilemma to a society lady, an elderly lady, who said to him at once, "Pay that visit by all means, you will be certain to confer a pleasure upon that young lady. If she is not particularly pleased to see you when you come in, she will be pleased to see you go out." (Laughter and applause.) And it is in this left-handed sort of way that I shall try to give pleasure. I am perfectly conscious of the fact that if you do not care to see me get up, you will be delighted to see me sit down. (Applause.)

I have sometimes tried to think, gentlemen, in what position the Bar looks at its best. There are some occasions on which it does not appear to the best advantage. Sometimes, I am sorry to say, it is at a little disadvantage, even in its chosen forum — the court-room. You all know of the rustic visitor to the City of New York, who was taken by a legal friend of his to visit the Court of Quarter Sessions. The stranger looked around upon the auditory,

and he turned and said finally, "Well, I always supposed that New York was a wicked city, I have often been told so, but I never thought it was quite as wicked as it is. I never in my life before saw, in so contracted a space, such a crowd of hardened criminals." And the friend said to him, "Yes, but those are not the criminals you are looking at, those are the lawyers." (Applause.) And gentlemen, I am not perfectly certain that the Bar always shows to the best advantage at a dinner. One reason, I suppose, is that the lawyers in Philadelphia at least are ill-paid and ill-fed. We say of a young lawyer, not that he is practicing law, but that he has been admitted to the Bar and is now practicing economy. (Applause.) Well, when one of these young gentlemen does get a square meal, why he sometimes becomes a little bewildered under the circumstances. (Applause.)

It is not always, however, those lawyers either who are so ill-fed that appear in this condition at the dinner table. I have actually seen, in the City of Philadelphia, a Judge of the Court of Common Pleas, a hard common-sense, matter-of-fact and matter-of-law lawyer, who never boasted that he had any imagination whatever, and whose friends never claimed that he had either (Laughter), a conscientious Judge, too, and a hard-working Judge, because he does not sit simply as a judge in his court, but he also acts as a thirteenth juror in every case tried before him — (Applause) — well, I have seen him stand at a public dinner — that is, when he was able to stand — (Applause) and draw a glowing picture of the glories of that good time coming when the science of special pleading would have become a myth, when lawyers would bring in their declaration on a sheet of note paper, when indictments for perjury would be drawn up on an envelope, when every man would be his own lawyer, and when law would be cheap, even if it did not happen to be good.

Now, I am not perfectly sure that that gentleman is not present here to-night. He told me, some few days ago, that he would come here if I would; and I afterwards discovered that he said exactly the same thing to about ten other men; so that he is under some pledges, at least, to be present. It is very likely, indeed, that if he should speak to-night, he will talk to you somewhat in the same strain; I hope you will listen to him with interest; he will be sure to be entertaining, if he is not instructive. (Applause.)

I have not any particular feeling on this subject, certainly no personal feeling. I recognize this fact distinctly — that there is room for a revision in the Courts of Common Pleas. I am not very much afraid, however, about the revision that might be applied to the Orphan's Court. A man that would undertake to revise our code of procedure would find it a very difficult matter, for the simple reason that we have not any code of procedure in that court. Most of the lawyers who come into the Orphan's Court of Philadelphia — well, they are a good deal like the Irishman who descanted upon the wrongs of Ireland, and, after he talked for an hour or so upon the outrages committed by the English upon that unhappy country, somebody in the audience got up and said, "What do your people want, anyhow?" "Want?" said the Irishman, "Why, we do not know what we want, but, be jabbers, we are bound to have it all the same." (Applause.) That is a good deal the way with the members of the Bar who come into our court. One gentleman presents a petition, and then another one presents an affidavit, and another one presents a paper, which is neither a petition nor an affidavit, and we sit down and read over the papers, and then we draw up a decree granting them what we think they want, but which they do

not seem to know themselves. (Applause.) I do not think you could reform very much on that code of procedure. (Laughter.)

I have no objection to these projected reforms. For my part, when I come to think about this new judicial dress, if you choose, if it will add new horror to death in the case of criminals in the Oyer and Terminer to have the judges sentence them in the red gown or black gown, by all means let the judges wear such a gown, a night-gown, if you choose, I do not care. (Applause.)

Assignments of Error.— In the United States Court for the Western District of New York, a seizure was made of one barrel of whiskey, two horses, and other property. The owner contested the seizure, a trial was had, and a verdict rendered for the Government. The owner entered an appeal, and filed an "Assignment of Error:"

"Afterwards, to wit, on the —— day of ——, in the same town, before one of the Justices of the —— Court of the United States at ——, comes *the said one barrel of whiskey, two horses, and other property,* —— claimant, and plaintiff in error, by ——, his attorney, and say," etc. The document concludes:

"And the said one barrel of whiskey, two horses and other property, —— claimant, *prays* that the judgment aforesaid may be reversed."

Referring to the haphazard assignments of error in *Weiting v. Nissley*, 13 Pa. 655, Chief Justice Gibson says:

"The record in this case, as in most others, has exceptions, like the pockets of a billiard table, to catch lucky chances from the random strokes of the players; but, as they have caught nothing in this instance, it is unnecessary to enter into a particular investigation of them."

In *Rogers v. Walker*, 6 Pa. 375, he pronounces the ex-

ceptions as "A reticulated web to catch the crumbs of the cause, and as they contain no point or principle of particular importance, they are dismissed without further remark."

The learned and facetious Chief Justice Bleckley, of Georgia, thus tenderly touches an associate whose decision in a lower court is under review:

"Before the translation of our brother Lumpkin to this bench, though his judicial accuracy was remarkable, he shared in the fallibility which is inherent in all courts except those of last resort. In some rare instances he committed error, and the very last of his errors is now before us for correction." *Broome v. Davis*, 87 Ga. 586.

Mr. Oswald, who had the reputation of being the *hardest fighter* at the English bar, was arguing a case in the Court of Appeals at great length. The court had intimated pretty clearly that it had heard enough, but Oswald, treating these intimations in his usual manner, went on raising point after point.

"Really," at last one of the justices remonstrated, "really, Mr. Oswald, if you intend to rely on these points you should have raised them in the court below."

"So I did, my lord," replied Oswald, "but their lordships stopped me."

"They stopped you, did they?" inquired Lord Esher, eagerly, "How did they do it?"

The late Chief Justice Sharswood, of Pennsylvania, said, in *Pennsylvania Canal Co. v. Bentley:* "This controversy is about a mule. Some great principles are supposed to be involved which it is necessary the court of last resort should decide. We often hear this alleged in cases in which it must be evident that the expenses will exceed the amount in dispute, or at least one would think

the play not worth the candle. This ardent attachment to principle seems to be a marked characteristic of the . . . bar of this state, and would be highly laudable if it were not accompanied with some counterbalancing public evils; such as the great increase of the business of this court and the harassing of suitors. There were no less than thirteen points presented in writing to the court below, and the learned judge was required to navigate through all the shoals and narrows of negligence and evidence of negligence; of contributory negligence and the *onus probandi*. He did so . . . with remarkable skill; and the argument of plaintiffs in error has failed to convince us that he was guilty of a single error."

"Some courts live by correcting the errors of others and adhering to their own. On these terms courts of final review hold their existence, or those of them which are strictly and exclusively courts of review, without any original jurisdiction, and with no direct function but to find fault or see that none can be found. With these exalted tribunals who live only to judge the judges, the rule of *stare decisis* is not only a canon of public good, but a law of self-preservation. At the peril of their lives they must discover error abroad and be discreetly blind to its commission at home. Were they as ready to correct themselves, they could no longer speak as absolute oracles of legal truth; the reason for their existence would disappear, and their destruction would speedily supervene. Nevertheless, without serious detriment to the public or peril to themselves, they can and do admit now and then, with cautious reserve, that they have made a mistake. Their rigid dogma of infallibility allows of this much relaxation in favor of truth unwittingly forsaken. Indeed, reversion to truth in some rare instances is highly necessary to their permanent well-being. Though it is a tem-

porary degradation from the type of judicial perfection, it has to be endured to keep the type itself respectable. Minor errors, even if quite obvious, or important errors if their existence be fairly doubtful, may be adhered to and repeated indefinitely; but the only treatment for a great and glaring error affecting the current administration of justice in all courts of original jurisdiction, is to correct it. When an error of this magnitude and which moves in so wide an orbit competes with truth in the struggle for existence, the maxim for a supreme court, supreme in the majesty of duty as well as in the majesty of power, is not *stare decisis*, but *fiat justitia ruat coelum*." — Chief Justice Bleckley, in *Ellison v. Georgia Railroad*, 87 Ga. 696.

"The bill of exceptions recites that counsel for plaintiff in error proceeded to reply to the argument in favor of the nonsuit, but was, almost at the outset, interrupted by the court, who stated that it was unnecessary for counsel for the plaintiff to take up the time of the court, as the court was 'dead-head' against him, and the court then passed the order. 'We know it is frequently the habit of counsel to make the speech long because the case is weak, but we agree with the circuit judge in thinking it needless to do so. That the judicial head was in the mortuary state described by its possessor was a necessary result of the evidence." — Bleckley, C. J., in *Sparks v. E. T., V. & G. Ry.*, 82 Ga. 159.

Bacon, Lord.— When Sir Edward Coke, presuming on his superior position as attorney-general, said in court, "Mr. Bacon, if you have any tooth against me, pluck it out, for it will do you more hurt than all the teeth in your head will do you good," Bacon replied: "Mr. Attorney, I respect you, I fear you not; and the less you speak of your own greatness, the more I will think of it."

Bacon, in his advice to Justice Hutton, says: "You should be a light to jurors to open their eyes, but not a guide to lead them by their noses."

Barbour, James.— Old Judge Barbour, of Virginia, after enjoying the highest honors, and retiring to private life, was prevailed upon to be a candidate for a local office. The opposition trotted out an illiterate, rough-and-tumble politician, named Bill Maples, against the old man. In accordance with the strict rules of conducting a political campaign in those days, Barbour had to take the stump with Maples. But Maples could always beat him in abusive harangues. The final speech of the campaign, made by Maples, was abusive beyond all precedent. Barbour's cutting reply is a rich bit of forensic ore:

"Fellow Citizens: When I was a young man, now nearly forty years ago, your grandfathers sent me as their representative for four terms to the House of Delegates, and I was chosen Speaker of that body. At a subsequent period I was twice elected Governor of Virginia. Afterwards, and for ten years, I represented this renowned commonwealth in the Senate of the United States, where I was the confidant, and perhaps I may say the peer, of Macon, King, Gaillard, Pinckney, Van Buren. Mr. John Quincy Adams subsequently conferred upon me a place in his cabinet, and for three years I shared his counsels in conjunction with Clay, Wirt and McLean. I was then appointed envoy extraordinary and minister plenipotentiary to the court of St. James, where it became my duty to conduct negotiations with the conqueror of Napoleon. Judge then, fellow-citizens, of the ineffable disgust I feel, after such a career, and in my declining years, at finding myself here to-day, engaged in a low, pitiful country

contest with such a —— disagreeable little cuss as Bill Maples."

Bates, Edward.— Judge Bates, of Missouri, was a monomaniac on the subject of tax titles, and, while on the bench of the Land Court, resorted to every conceivable plan to overthrow a title predicated upon a tax sale. In an action of ejectment in his court, the plaintiff relied upon a tax title; and when he introduced his deed in evidence, the judge scrutinized it very closely, and found the land described as "N. E. qr. of S. E. qr. of S. 4, T. 40;" and the following colloquy took place:

"Mr. Counsel, what do the letters N. E. in this deed stand for?"

"North East, if your honor please."

"North East, North East? What evidence is there before the court to show that they mean any such thing?"

"The letters N. E. are usually used by surveyors to designate the points of the compass."

"How is this court to know that they were not intended to represent 'New England' or 'New Edition,' or 'Nothing Extra,' or any other words to which the initials may be applicable?"

"The point raised by your honor is new, and I am not prepared to give any additional explanation."

"The objection to the introduction of the deed is sustained, upon the ground of uncertainty in the description of the premises. Plaintiff nonsuited."

Benjamin, Judah P.— Benjamin, attorney-general of the Southern Confederacy, and afterward eminent as a member of the English bar, possessed great power in applying "the theory of the law to daily practice." The following story illustrates his shrewdness and convincing logic:

He was counsel for a plaintiff who owned a cargo of

cotton and claimed damages against a Liverpool warehouseman, who had accepted it to be warehoused at a stipulated rent. The warehouse, it was said, was old, and the walls and roof gave way, in consequence of which the cotton was damaged.

The defendant spared no expense in procuring witnesses of the class known as "experts," upon whose evidence, rightly or wrongly, so many caustic remarks have been made by judges and others.

One after another these men came into the box, with the full confidence of vast experience — architects, builders, engineers, warehousemen, and all who could assist in demonstrating to the jury that no stronger or more perfect warehouse had ever been constructed.

At last, by way of climax, came a gentleman whose great prestige and combined experience as both architect and engineer eclipsed that of all who had preceded him. He gave his evidence in that calm and measured tone which demands acquiescence from all who hear it, and explained the impossibility of the accident having occurred in consequence of any improper construction or want of repair.

While this was going on, Benjamin sat taking a note in solemn gravity; then he rose to cross-examine the witness.

"I think, sir, you said you had had great experience in the building of warehouses?"

"Yes."

"And that you have carefully considered the causes which lead to their weakness?"

"Certainly."

"And you have applied those considerations to the present case?"

"I have done so."

"Then will you kindly answer me one more question? Why did that warehouse fall?"

The witness paused, and Benjamin, with a pleasant twinkle in his eye, sat down with almost a bump on his seat.

The pause continued, and the effect of it was so striking that jurymen, bystanders and all could not resist a hearty laugh, which terribly diminished the effect of a long and reasoned reply which the expert finally went on to give.

"Thank you," said Benjamin. "I have no more questions with which to trouble you."

The result was irresistible, and no ingenuity on the part of the learned counsel for the defendant could retrieve the lost ground. The verdict was for the plaintiff.

Benton, Thomas H.— In his early professional career, Benton practiced law in Tennessee. Subsequently he represented Missouri in the United States Senate, attaining eminence and fame as an orator. His oratory, especially on the stump, had a humorous quality that caught the popular taste.

Benton was once delivering a speech, the burden of which was abuse of the New York Tribune and Horace Greeley, who had incurred his particular displeasure. He had described the great Whig journalist as "the whitest man in the world. He wears a white hat, he wears a white coat, his hair is white, his skin is white, and I give it to you as my candid opinion that his liver is of the same color."

Having finally disposed of Mr. Greeley to his satisfaction, he continued, "Fellow-citizens, the assistant editor of the Tribune is Robinson — Richelieu Robinson. He is an Irishman, an Orange Irishman, a red-haired Irish-

man!" At this point the old campaigner cast his eye over his audience and observed that there was a liberal sprinkling of red heads, both male and female. With the veteran's instinct, he realized in a moment the mistake his hurried and heedless invective had perpetrated. It must be corrected at once; but he was equal to the emergency. With an impressive pause, and an equally impressive wave of his hand, he resumed as if continuing the original thread of his discourse.

"Fellow-citizens," said he, "when I say that Robinson is a red-headed Irishman, I mean no disrespect to persons whose hair is of that color. I have been a close observer of men and affairs for forty years, and I can on my veracity declare that I never knew a red-haired man who was not an honest man, nor a red-haired woman who was not a virtuous woman, and I give it as my candid opinion that had it not been for Robinson's red hair he would have been hanged long ago!"

Black, Jeremiah S.— Chief Justice Black, of Pennsylvania, in reviewing a case which came up from the court of his old friend, Judge Moses Hampton, remarked that "Surely Moses must have been wandering in the wilderness when he made his decision," and sent the case back to the lower court. Judge Hampton, on its second trial, took occasion to remark that although he would have to submit to the higher authority, yet he still thought he was right, "in spite of the Lamentations of Jeremiah."

Black for a long time wore a black wig. On one occasion, having donned a new one, Senator Bayard, of Delaware, met him:

"Why, Black, how young you look! You are not so gray as I am, and you must be twenty years older."

"Humph!" replied the judge; "good reason: your hair comes by *descent*, mine by *purchase*."

Bleckley, L. E.— The rare ability, fine literary attainments, charming humor and trenchant wit of the late Chief Justice Bleckley, of Georgia, place him easily in the front rank of the great men of the south.

The advice of Lord Mansfield to an old army officer, appointed governor of a West India island,— "Decide promptly, but never give any reasons for your decisions. Your decisions may be right, but your reasons are sure to be wrong,"— is illustrated by Bleckley in *Lee v. Porter*, 63 Ga. 346:

"It not infrequently happens that a judgment is affirmed upon a theory of the case which did not occur to the court that rendered it, or which did occur and was expressly repudiated. The human mind is so constituted that in many instances it *finds the truth* when wholly unable to *find the way* that leads to it:

> 'The pupil of impulse, it forc'd him along,
> His conduct still right, with his argument wrong:
> Still aiming at honor, yet fearing to roam.
> The coachman was tipsy, the chariot drove home.'"

"There are so many Hawks in the facts in this case that the air is a little darkened." *Hawks v. Hawks*, 64 Ga. 239.

There is in the following extract from his opinion in *McNaught v. Anderson*, 78 Ga. 503, an amusing exposition of the legal rights of the wife as well as her domestic privileges in the matter of self-support:

"The legal unity of husband and wife has, in Georgia, for the most purposes, been dissolved, and a legal duality established. A wife is a wife, not a husband, as she was formerly. Legislative chemistry has analyzed the conjugal unit, and it is no longer treated as an element, but as a compound. A husband can make a gift to his wife, al-

though she lives in the house with him, and attends to her household duties, as easily as he can make a present to his neighbor's wife. This puts her on an equality with other ladies and looks like progress. Under the new order of things, when he induces her to enter into the business of keeping boarders and promises to let her have all the proceeds, he is allowed to keep his promise if she keeps the boarders. It would seem that the law ought to tolerate him in being faithful to his word in such a matter, even though he has pledged it only to his wife, and we think it does."

In *Lukens v. Ford*, 87 Ga. 542, the chief justice paints in glowing colors the lumbering records of small litigation:

"In the ornithology of litigation this case is a tomtit furnished with a garb of feathers ample enough for a turkey. Measured by the verdict, its tiny body has only the bulk of $25, but it struts with a display of record expanded into 83 pages of manuscript. It seems to us that a more contracted plumage might serve for a small bird, but perhaps we are mistaken. In every forensic season we have a considerable flock of such cases, to be stripped and dissected for the cabinets of jurisprudence. We endeavor to pick our overfledged poultry with judicial assiduity and patience."

"Non-suit is a process of legal mechanics; the case is chopped off. Only in a clear, gross case is this mechanical treatment proper. When there is any doubt another method is to be used — a method involving a sort of mental chemistry; and the chemists of the law are the jury. They are supposed to be able to examine every molecule of the evidence, and to feel every shock and tremor of its probative force." *Vickers v. A. & W. R. R.*, 64 Ga. 308.

"Anyone who seriously doubts the correctness of this ruling may readily solve his doubts by studying law." *Dutton v. State*, 92 Ga. 15.

Speaking of egotism, Bleckley says: "No matter how well introduced by others, I always bring myself before my audience, if I have any. Very often I have none, and then I don't speak, except to myself. I take myself along all the time, and my habit is to talk about myself as freely as about other people, and quite as favorably; if any difference, more so. In short, I am an egotist. I consider it a great blessing to be myself, a blessing which I appreciate the more, the more I think of the great risk I must have run of being somebody else. Of the fifty-five millions of other people in the United States I might have been any one. Indeed the possibilities were much wider; I might have been any one of the fifteen hundred millions that inhabit the earth. Nor does this even begin to exhaust the contingencies to which I was subject; I might have been any one of the countless myriads that ever did or ever will live. I might perchance have been one of the unimaginable number of animals or plants or minerals — a grain of sand or a mote in the atmosphere. I might have been one of the units, any one of the atoms, of derivative existence, with my place at any point in the immensities, my time at any moment of the eternities. On the other hand, I might not have been at all."

The most touching decision in *64 Georgia Reports* is the following by Bleckley:

In the Matter of Rest.

"1. Rest for hand and brow and breast,
For fingers, heart and brain!
Rest and peace! a long release
From labor and from pain;
Pain of doubt, fatigue, despair —
Pain of darkness everywhere,
And seeking light in vain!

"2. Peace and rest! Are they the best
For mortals here below?
Is soft repose from work and woes
A bliss for men to know?
Bliss of time is bliss of toil;
No bliss but this, from sun and soil,
Does God permit to grow."

The reporter appends the following explanation: "Justice Bleckley having resigned, at the conclusion of his last opinion, read from the bench the above exquisite little poem, which was ordered spread upon the minutes by the court. It constitutes a fit close to the judicial career of one whose opinions in these reports show him not only to have been the profound lawyer, but also the accomplished scholar."

Bond.— During a session of the Circuit Court at Lynchburg, Virginia, an Irishman was indicted for stabbing another on the canal, and the only witness, Dennis O'Brien, was required to enter into a bond for his appearance at the next term of court. The bond was read to him in the usual form:

"You acknowledge yourself indebted to the commonwealth of Virginia in the sum of five hundred dollars."

"I don't owe her a cint, sir."

As soon as the clerk recovered from his amusement at the answer, he explained the meaning of the form, and then read it over again.

"I tell ye I don't owe her a cint. It's more money nor I ever saw, nor my father before me."

At this stage of the matter a brother of Dennis interfered, and said:

"Ye must jest say it, Dinnis; it's ony one of the forms of the law."

"But I won't. I'm a dacent, honest man, what pays my debts, and I'll spake the thruth, and the divil may

drink all my whiskey for a month if I say I owe anybody a cint. Now chate me if you can."

Dennis refused to say it, but he promised to come to court at the next term and tell all he knew about the murder.

Bradley, Joseph P.— The late Justice Bradley, of the Supreme Court of the United States, in a charmingly dramatic way, used to relate this story: "I was walking one morning, rather plainly dressed, near the City Hall, when a man came up and said, 'Do you live in the District?' I said 'Yes.' 'Own property in the District?' 'Yes, I do; but what's that to you?' 'Well,' he said, 'I want you to come with me.' 'What for?' 'I want you to serve on a jury; they are short of a juryman in there, and I'm sent out to get one.' 'How long will it take?' 'I don't know,' said he; 'it may take two or three days.' 'But I haven't time, I'm busy.' 'Oh, they all say that, but it doesn't go with me; I don't accept any such excuse as that.' So I walked along a little way toward the building, as if I were going in. 'But I've business to attend to,' said I. 'Oh, well, your business can wait.' 'No, it can't — I've got to go to the Capitol; I've important things to attend to there.' At first I had thought I would let him take me in, and then I would tip the wink to the judge; but I concluded I wouldn't go so far as that, so I said to him: 'Are you in the habit of putting Justices of the Supreme Court of the United States in your jury-boxes?' 'Why, are you a Justice of the Supreme Court?' 'Yes,' said I. 'What name?' 'Bradley,' said I; and after I had told him he concluded to let me go."

Soon after rooms in the new post-office building at Philadelphia were ready for the United States courts, Justice Bradley went to that city to hold court. Upon

entering the building, one of the janitors, taking him for a casual visitor, assumed to show him over the various floors. The stranger appeared to be interested in what he was permitted to see. When they had come to a finely-furnished room just off from the court-room, he inquired of the guide what room it was. "Oh, this is for the judges; but they haven't arrived yet."

Laying aside his umbrella, and taking off his hat and coat, he quietly remarked:

"One of them has."

Brady, James T.— Brady was admitted to the New York bar in 1836; and for more than thirty years was one of its great leaders. "His father," says a writer of that city, "believed that a science which distinguishes between right and wrong; which teaches to establish the one, and prevent, punish or redress the other; which employs in its theory the noblest faculties of the soul, and exerts in its practice the cardinal virtues of the heart, should be thoroughly studied by all who desire a finished and liberal education. The elder Brady taught his son that laborious study and diligent observation of the world are both indispensable to the lawyer.

"'James,' said he, one day, 'the study of law is like scaling the Alps — you must adopt the indomitable energy of Hannibal, and your ascent will be easy. Of all things beware of half knowledge — it begets pedantry and conceit; it is what the poet meant when he said, "A little learning is a dangerous thing." Make your learning practical, for a bookworm is a mere driveler — a gossamer. There is a deal of legal learning that is dry, cold, dark, revolting; but it is an old feudal castle, in perfect preservation, which the legal architect who aspires to the first honors of his profession will delight to explore, and

learn all the uses to which the various parts are to be put, and thus he will better understand and relish the progressive improvements of the science in modern times.'

"With such familiar conversation as this, the elder Brady implanted in the mind of his son the great principles of jurisprudence."

When Brady first opened an office in New York he took a basement room, previously occupied by a cobbler. He was annoyed by the previous occupant's callers, and irritated that he had few of his own. One day an Irishman entered.

"The cobbler's gone, I see."

"I should think he has," tartly responded Brady.

"And what do ye sell?" looking at the solitary table and a few law books.

"Blockheads."

"Be gorra," said the Irishman, "ye must be doing a mighty fine business — ye've only one left."

Anecdotes that fell from Brady's lips derived peculiar humor from his way of telling them, which could neither be imitated nor described. He entered heartily into the fun of what he was relating, and laughed as loud as the loudest. "There is counselor M——," he said, referring good-humoredly to an advocate of considerable distinction, "quite a brilliant jury-lawyer, and a pretty strong man, but with some peculiarities. Did any of you ever notice his queer parentheses in summing up? For instance: If he desires to allude to any one connected with the case in terms of condemnation, you'll always hear him begin in this fashion:

"'Then, gentlemen of the jury, there is the defendant (God help him!),' or 'Observe, gentlemen, the character of the witnesses marshaled here to crush us; and, first

and foremost, we have John Smith (God help him!),' etc.

"Now, I think," pursued Brady, with a merry twinkle, "that if Mr. M—— would only direct his appeals where he has some weight and influence, he might have a reasonable expectation of success."

Brady was very fond of the ready natural wit of his countrymen. One day, speaking of this to a friend, he said, "I'll just show you a sample. I'll speak to any of these men at work; and you'll see that I will get my answer." Stepping up to the men who were at work on a cellar near by, he spoke to them cheerfully. "Good day, good day to you, boys. That looks like hard work for you."

"Faix an' it is," was the answer, "or we wouldn't be havin' the doin' of it."

Pleased with this, he asked the man what part of Ireland he came from.

"Ah!" said Brady on hearing the name, "I came from that region myself."

"Yis," said the man, with another blow of his pick, "there was many nice people in that place; but I never heard that any of them left it."

Braxfield, Lord.— Cockburn, who cordially detested Lord Braxfield, the Scotch jurist—painting him a "bloody Jeffreys"— styled him the best lawyer of his time. His wit and satire shot quick as a flash.

A story of Braxfield's early career at the bar tells how he queried some Lord Ordinary's authority for a ridiculous proposition, and was answered:

"Lord Stair."

"Na, my lord, that can never be, for there's na nonsense to be found in Stair."

A foolish member of the Fifteen had delivered a rambling and irrelevant judgment, concluding with "such is my opinion." "*Your* opeenion," growled Braxfield, in one of his formidable asides.

It chanced that two well-known advocates, one of them Charles Hay, afterwards Lord Newton, a member of the Crochallan Fencibles, and so a boon companion of Burns, had been "late, late at e'en drinkin' the wine." Next day, with every mark of their last night's debauch, they were pleading before Braxfield. He listened in contemptuous amusement, but at length burst forth:

"Ye may just pack up your papers and gang hame; the tane of ye's riftin' punch and the ither belchin' claret"—how exquisitely subtle the distinction:—"and there'll be nae guid got out o' ye the day!"

Braxfield's favorite maxim: "Hang a thief when he's young, and he'll no steal when he's auld."

Much of Braxfield's table-talk owes its piquancy to the high place of the talker. Sir James Colquhoun, being asked to take a hand at cards as his partner, refused unless my lord promised "no to misca' him." "I'll no misca' ye, Jamie," said Braxfield. The game went on; Sir James played badly, and was vigorously cursed as "fule" and "idiot." He taxed his lordship with broken faith. But Braxfield returned that he was not miscalled but truly described.

Brevity.—Brevity, the soul of wit, is finely illustrated in Judge Story's *Advice to a Young Lawyer:*

"Be brief, be pointed; let your matter stand
Lucid in order, solid and at hand;
Spend not your words on trifles but condense;
Strike with the mass of thought, not drops of sense;

Press to the close with vigor, once begun,
And leave — how hard the task! — leave off when done.
Who draws a labored length of reasoning out,
Puts straws in line for winds to whirl about;
Who draws a tedious tale of learning o'er,
Counts but the sands on Ocean's boundless shore.
Victory in law is gained as battles fought,
Not by the numbers, but the forces brought."

The same thought by Judge Story is strikingly presented in the following lines:

"Stuff not your speech with every sort of law;
Give us the grain and throw away the straw."

"Who's a great lawyer? He who aims to say
The least his cause requires,— not all he may."

In an English case the judge charged: "Gentlemen of the jury, this is an action for debt, to which the defendant has pleaded as a set-off two things — a promissory note which has a long time to run, and an old gig which has but a short time to run. The case seems clear. You may find for the plaintiff."

"The question, which has been so ably and exhaustively argued by the counsel on each side, is one which cannot properly arise in this case." 125 Mass. 343.

Lawyers are not noted for brevity of speech, yet an eminent English jurist, probably on the theory that opposites are apposites, is said to have been won by a laconic damsel while on his way to hold court in a country town. The girl was returning from market when the judge met her.

"How deep is the creek, and what did you get for your butter?" he asked.

"Up to the knee; ninepence," was the answer, as the girl walked on.

The judge turned his horse, rode back, and soon overtook her.

"I liked your answer just now," he said, "and I like you. I think you would make a good wife. Will you marry me?"

She looked him over and said, "Yes."

"Then get up behind me, and we will ride to town and be married."

Referring to brevity, Chief Justice Bleckley, in his address to the Georgia Bar Association, in 1889, says:

"Life is too short within which to do too much useless labor. There is certainly too much of it done. Waste work comprehends at least one-half of all work. My opinion is that two-thirds of the labor of lawyers and courts may be said to be wasted absolutely. Let us reduce the useless work of the profession and of the bench to a minimum. . . . It is a mistake to throw legal work into the hopper pell-mell. It is a mistake to do it, no matter what court you present yourselves in. A great part of your labor should be in keeping out work when your causes come to be tried, whether in a lower or higher court. A great part of the most useful work you can do is to sift out all the irrelevant and all the unnecessary material that will collect about a law-suit. When you go into court your standards are all abstract. Law is abstraction; it is generality; it is a system of general rules for cases of each class. Your standards in any court, whether you are before the court alone or before a court and jury, are all abstract. Bring in enough of the concrete case (all of it that touches the merits) to show how to apply the abstract rules of law to it. Then you have done your best. Let the concrete be so reduced in mass that you can readily apply the abstract to it. . . . One of the best methods of relieving . . . . all courts would be for lawyers to do most of their work before they go to court; to eliminate from their records and

the material of their cases all the irrelevant — all that can be spared without hazarding or impairing the merits."

A surgeon testifying said: "On examining the prosecutor, I found him suffering from a severe contusion of the integuments under the left orbit, with a great extravasation of blood, and ecchymosis in the surrounding cellular tissue, which was in a tumified state; and there was also considerable abrasion of the cuticle."

"You mean, I suppose," said the court, "that the man had a black eye?"

"Yes."

"Then why not say so at once?"

Justice Bramwell, when attempting to be clear, was at times perplexing:

"My good woman," said the learned judge, "you must give an answer in the fewest possible words of which you are capable, to the plain and simple question whether, when you were crossing the street with the baby on your arm, and the omnibus was coming down on the right side and the cab on the left and the brougham was trying to pass the omnibus, you saw the plaintiff between the brougham and the cab, or whether, and when you saw him at all, and whether or not near the brougham, cab and omnibus, or either, or any two, and which of them respectively, or how it was?"

Judge Cooley once said to his law class: Young gentlemen, beware of the fatal facility of speech.

Justice Norris is said to have delivered in the High Court of Calcutta the shortest charge ever delivered to a jury:

"Gentlemen of the jury, the prisoners have nothing to say, and I have nothing to say; what have you to say?"

"Guilty," was what the prisoners heard the jury say.

Justice Honyman, during an assize at Worcester, was equally sparing in speech: "Gentlemen of the jury, you have heard the evidence, and you have heard the learned counsel. It is for you to decide. If you believe the evidence of the defendant, the plaintiff is up a tree."

In two minutes the jury rushed the plaintiff "up a tree."

On cross-examination, an attorney insisted that the witness should answer by a simple "Yes" or "No," asserting that every question could be replied to in that manner. The witness replied:

"Will you allow me to ask you a question on those terms?"

"Certainly," said the counsel.

"Then, may I ask, have you given up beating your wife?"

This was a poser, for if answered by "Yes" it would imply that he had previously beaten her, and if by "No," that he continued to do so.

Sir Samuel Martin bore in mind the golden rule not to perplex the jury with too many details, but to put his best point to them, and to put it strongly. As a judge he likewise sought to reduce matters to a small compass. After a mass of contradictory evidence and long speeches in a case, he summed up as follows:

"Gentlemen of the jury, you have heard the evidence and the speeches of the learned counsel. If you believe the old woman in red, you will find the prisoner guilty; if you do not believe her, you will find the prisoner not guilty."

"The full argument of counsel, occupying *seventeen entire days*, and an examination of the records, have satisfied me . . ." 3 Woods' C. C. 78.

A student of a prominent English college was placed in the dock, charged with a petty theft committed in a shop, and the defense was his station in life, his prepossessing appearance, and his family. The judge's charge was brief:

"Gentlemen of the jury, this is a short issue; the prisoner at the dock is a young man of attractive manners and irreproachable connection, who stole a pair of silk stockings, and you will find accordingly."

Brewster, Benjamin H.—Attorney-General Brewster, whose face was terribly disfigured by scars, was once engaged in a case as attorney for the Pennsylvania Railroad, and the opposing counsel, in his closing speech, made a most brutal attack on him.

"The dealings of the railroad," he said, "are as tortuous and twisted as the features of the man who represented it."

Brewster gave no outward sign that he felt this cruel blow until he had finished his argument. Then he said:

"For the first time in my life the personal defect from which I suffer has been the subject of public remark. I will tell you how I came by it. When I was five years of age, I was one day playing with a younger sister when she fell into an open grate where a fire was burning. I sprang to her assistance, dragged her from danger, and in doing so I fell myself with my face upon the burning coals. When I was picked up my face was as black"—and his finger transfixed his antagonist—"as that man's heart."

Bribery.—Jim Webster was being tried for attempting to bribe a colored witness, Sam Johnsing, to testify falsely.

"You say this defendant offered you a bribe of fifty

dollars to testify in his behalf," said Lawyer Gouge to Johnsing.

"Yes, sah."

"Now repeat precisely what he said, using his own words."

"He said he would git me fifty dollars if I—"

"He didn't speak as a third person."

"No, sah; he tuck good keer dat dar was no third pusson present. Dar was only two,—us two. De defendant am too smart ter hab anybody list'nin' when he am talking about his own reskelity."

"I know that well enough, but he spoke to you in the first person, didn't he?"

"I was the fust person myself."

"You don't understand me. When he was talking to you, did he use the words, "I will pay fifty dollars?"

"No, boss; he didn't say nuffin about your payin' me fifty dollars. Your name wasn't mentioned, 'ceptin' dat he tole me ef eber I got inter a scrape dat you was de best lawyer in San Antone to fool de judge and jury; in fac', you was de best lawyer in de town fer coverin' up any kind of reskelity."

"You can step down."

Brice, Calvin S.—There is no more striking example of success attained by the efforts of individual ability than that in the career of the late ex-Senator Brice, of Ohio. It is no time at all since he hadn't enough to flag a bread wagon.

It was in Gov. Foster's time as chief magistrate of Ohio that Brice, then a poor, hard-up lawyer, managed to get into Foster's debt about $2,000. One day Brice came to Foster and told him that the law business didn't pay, and asked him to appoint him to a position where he might make a living.

"Can't," said Foster, "you're a Democrat."

"I admit," replied Brice, "that I am slightly a Democrat, but if you'd give me a position, I'll guarantee that nobody will notice it."

"Can't do it," said Foster. "To appoint a Democrat would ruin me."

"But you'll never get your $2,000," said Brice. "You might as well ask me to make a star as to make that $2,000 with my law practice."

"I'll tell you what I'll do," said Foster. "I am all tangled up with Hocking Valley on the New York Stock Exchange, and I want somebody to go there and look after things. I'll send you if you'll go."

Brice jumped at the chance. Foster gave him $500 and a lot of directions, and impressed upon him solemnly the necessity of doing just what he was told. If Brice had been a waiter he would have taken your order, and then brought you anything he pleased. He would have used his own judgment. That's what he did with Foster's Hocking Valley deal, but he clawed off a $40,000 profit, whereas if he had done as Foster told him he would have lost all. Foster was delighted, and like a good old man in the story book, he gave the young man $20,000. Then Brice went back to Wall Street and plunged.

Brice was endowed with a genius for wealth-getting. His greatest play was building the Nickel Plate. He put in every dollar he could get and from any source. There came a time, too, when to save himself from utter ruin, if not from something worse, he had to sell. He went to Vanderbilt, whose road the Nickel Plate paralleled. Vanderbilt gave him what low natures call "the laugh." He wouldn't buy the Nickel Plate. He said he could afford to wait for the first-mortgage foreclosure and buy it from the sheriff.

"If you don't buy it, Jay Gould will," said Brice.

"Oh, no, he won't," said Vanderbilt, and then he gave the anxious Brice a second edition of "the laugh."

Brice then went to Gould. He knew that Gould didn't want the Nickel Plate, but he had a beautiful scheme to propose. He wanted to let Vanderbilt in for the road, and he knew he would buy it before he would allow Gould to get it. Here came Brice's strategy. He told Gould that if he would sit silent and not contradict, neither affirm nor deny, any newspaper article to the effect that he was going to buy the Nickel Plate, and, after this clamlike silence had continued for a week, if he would then slowly ride over the Nickel Plate in an observation car, Vanderbilt would buy the road and he would give Gould $500,000.

Gould didn't care for the $500,000, but he was a jocose speculator, and it struck him that the whole thing was a majestic joke on Vanderbilt. And that was the story of it. The papers came out and said Gould was going to buy the Nickel Plate. Gould, when asked, kept mum and looked wise. At the end of a week he meandered snail-like over the Nickel Plate, smoking cigars from the rear end of an observation car, and had all the air of a man who was looking at a piece of property. Stories were wired about Gould's trip from every water tank and way station along the line, and before Gould had reached Chicago, Vanderbilt, in a fit of hysterics, wired Brice that he would take the Nickel Plate. Vanderbilt took the Nickel Plate and Brice was saved.

Brougham, Lord.— Brougham was one of the most learned men of his time. Samuel Rogers, on seeing him drive away from a country house, remarked, "There go Solon, Lycurgus, Demosthenes, Archimedes, Sir Isaac Newton, Lord Chesterfield, and a great many others, in one post-chaise."

The saying of Augustus, "I found Rome brick, I leave it marble," is finely used in the peroration of Brougham's speech on Law Reform, in the House of Commons in 1828:

"It was the boast of Augustus,—it formed part of the glare in which the perfidies of his earlier years were lost,—that he found Rome of brick, and left it of marble; a praise not unworthy a great prince, and to which the present reign also has its claims. But how much nobler will be the sovereign's boast when he shall have it to say that he found law dear, and left it cheap; found it a sealed book, left it a living letter; found it the patrimony of the rich, left it the inheritance of the poor; found it the two-edged sword of craft and oppression, left it the staff of honesty and the shield of innocence!"

On Brougham's elevation to the woolsack, Daniel O'Connell said: "If Brougham knew a little law, he would know a little of everything."

Sydney Smith, seeing Brougham in a carriage, on the panel of which was the letter B, observed:

"There goes a carriage with a B outside and a wasp inside."

Brougham declined Canning's offer of the office of chief baron of the exchequer, because it would keep him out of Parliament.

"True," said Canning, "but you will be only one stage from the woolsack."

"Yes," rejoined Brougham, "but the horses will be off."

Brougham's self-importance is seen in his remark concerning the cabinet in which he was lord chancellor from 1830–34:

"The Whigs are all ciphers; I am the only unit in the cabinet that gives a value to them."

In a speech on the address to the crown, after the Duke of Wellington had become prime minister, Brougham said:

"The country sometimes heard with dismay that the soldier was abroad. Now there is another person abroad,— a less important person; in the eyes of some, an insignificant person — whose labors had tended to produce this state of things. *The schoolmaster is abroad!* and I trust more to the schoolmaster armed with his primer, than to the soldier in full military array, for upholding and extending the liberties of my country."

Brougham's irritable temper often led him, when lord chancellor, to squabbles with the counsel at the bar. On one occasion, while the learned Sir Edward Sugden was pleading before his lordship in a very important case, and just in the middle of what he conceived to be the most essential part of his argument, Brougham suddenly threw back his head on his chair, and, closing both eyes, remained in that position for some time, as if he had been asleep. Sugden abruptly paused, waiting no doubt till his lordship should resume an attitude which would be more encouraging for him to proceed with his argument. On this, Brougham suddenly started up from his reclining position, and resuming that in which he usually sat when on the bench, apostrophized Sir Edward after the manner so peculiar to himself:

"Go on, Sir Edward; proceed, Sir Edward; what's the cause of the stoppage?"

"My lord, I thought your lordship was not attending to my argument."

"You have no right to think any such thing, Sir Edward; it's highly improper in you to do so; go on, if you please."

Sugden resumed his argument, and had proceeded but

two or three minutes, when Brougham snatched up a pen, and commenced writing on some letter sheets in front of him. Sugden again paused in his address to the court, and leaned with his elbows on the bench before him, as if willing to wait patiently until his lordship should finish his writing.

"Sir Edward!" exclaimed Brougham in angry and ironical accents; "pray what's the matter now?"

"I thought, my lord, that your lordship was temporarily occupied with some matter of your own."

"Really, Sir Edward, this is beyond endurance."

"I beg your lordship's pardon; but I thought your lordship was writing some private letter."

"Nothing of the kind, Sir Edward," said his lordship, tartly; "nothing of the kind. I was taking a note of some points in your argument. See, would you like to look at it?" said he, sarcastically, holding out the sheet of paper towards Sir Edward.

"O not at all, your lordship. I do not doubt your lordship's word. I must have been under some mistake."

Sir Edward again resumed, and Lord Brougham, throwing his head back on his chair, looked up towards the ceiling of the court.

Brougham had a great horror of hearing the interminable arguments which some of the junior counsel were in the habit of making, after he conceived everything had been said which could be said on the real merits of the case before the court by the gentlemen who preceded them. His hints to them to be brief on such occasions were sometimes extremely happy. On one occasion, after listening with the greatest attention to the arguments of two counsel on one side, from ten o'clock till half-past two, a third rose to address the court on the same side.

His lordship was quite unprepared for this additional infliction, and exclaimed:

"What! Mr. A——, are *you* really going to speak on the same side?"

"Yes, my lord, I mean to trespass on your lordship's attention for a short time."

"Then," said his lordship, looking the orator significantly in the face, "then, Mr. A——, you had better cut your speech as short as possible, otherwise you must not be surprised if you see me dozing; for really, this is more than human nature can endure."

The youthful barrister took the hint, kept closely to the point at issue — a thing very rarely done by barristers — and condensed his argument into a reasonable compass.

Brown, James T.— Brown, of Greensburg, Indiana, once defended a case in the Circuit Court of that state. The judge was not very learned in technicalities, knew little Latin and less Greek. The jury were ordinary farmers. After plaintiff's counsel had opened the case, Brown rose and spoke for two hours in a flowery, eloquent manner, repeating Latin and Greek, and using all the technicalities he could think of. The jury eyed him with their mouths wide open, the judge looked on with amazement, and the lawyers laughed aloud. The case was submitted to the jury without one word of reply, and their verdict, without leaving the box, was against Brown.

In the morning Brown appeared in court, and, bowing politely to the judge, said:

"May it please your honor, I humbly rise this morning to move for a new trial; not on my own account, for I richly deserve the verdict, but on behalf of my client, who is an innocent party. Yesterday I gave wing to my imagination and rose above the stars in a blaze of glory.

I saw at the time that it was all Greek and turkey tracks to you and the jury. This morning I feel humble, and I promise the court, if it will grant a new trial, that I will try to bring myself down to the comprehension of the court and jury."

The judge: "Motion overruled, and a fine of five dollars imposed upon Mr. Brown for contempt of court."

"For what?"

"For insinuating that the court doesn't know Latin and Greek from turkey tracks."

"I shall not appeal from that decision; your honor has comprehended me this time."

On another occasion, before a circuit judge of the same state, Brown appeared for the defendant, demurred to the sufficiency of the declaration, and made a short but very pointed argument. The judge, a stupid specimen of his class, waking up in the midst of the argument, interrupted him, and asked what the *pint* was that he was driving at. Brown hesitated a moment, and then deliberately replied:

"If the court please, I am about to illustrate it by diagrams, and I hope to make it so plain that the audience and perhaps even the court will understand it."

At another session of the court, Brown was arguing the case with masterly ability, when the judge remarked that he need not argue the law, as the court understood that perfectly. Brown replied, with much meekness, that he "merely desired to talk about the law as it is *in the books*, which would be entirely different law from any his honor was acquainted with."

Browne, Irving.— The late Irving Browne, so well remembered in Troy as lawyer and wit, was not found lacking when he essayed the building of lofty rhyme. In 1888 he contributed to the Fair Journal, a little paper

published nightly for two weeks as the official organ of the Beth Emeth fair, in Albany, these unassuming but charming lines, which are not generally known to his admirers:

The Bubbles of Life.

A boy and girl upon the yellow beach
  Blew shining bubbles in the summer air,
And as they floated off they named them, each
  Choosing what seemed to him or her most fair.

"I name mine 'Wealth,'" exclaimed the careless boy;
  "So may I never have to count the cost,
But ships and houses own, as now a toy."
  But Wealth was driven far out to sea and lost.

"I name mine 'Beauty,'" exclaimed the careless girl;
  "So women all shall envy my fair face,
And men shall kneel and beg me for a curl."
  But Beauty vanished quickly into space.

"I name this 'Fame,'" essayed the boy again;
  "So may I hear my praises every hour
As orator or soldier sung by men."
  But Fame was wrecked against the beacon tower.

"This is 'Long Life,'" returned the little maid;
  "So may I happy be for many a year,
Nor be till late of ugly death afraid."
  But Long Life broke within a graveyard near.

At last twin globules they together blew,
  And named them "Love;" as slow they rose on high
The sun shone through them with prismatic hue,
  Till Love was lost within the glowing sky.

Buller, Francis.—Justice Buller, of the King's Bench, said that his idea of heaven was "to sit at *nisi prius* all day, and play whist all night."

Burke, James Francis.— Burke, of the Pittsburgh bar, is widely known as an effective stump speaker. His forceful style is heightened with a fine humor and a

lively wit. Some of his campaign experiences and observations are worthy of preservation.

In the campaign of 1892 I was billed to speak with an Eastern congressman in a country church near Albany, New York. There was a fair audience present. The local burgess presided. There were just two lamps in the church, suspended from the ceiling. The burgess proceeded to light one lamp, and then told me to speak as long as the oil lasted. I noticed there was more oil in the other lamp, but concluded that as my colleague was a congressman he was entitled to the best of it. My lamp lasted an hour, and thereupon the old burgess proceeded to light the other, and accidentally let it fall, and the audience disbanded in the dark, but the burgess assured the congressman if he would come back next year he would get the first lamp. The chairman afterwards told me that the lamp business was an old device with them to keep speakers from talking too long. They first tried it on their preacher.

Another incident happened when I was billed to speak at Bucksport, Me. This time I suffered. The train was behind time, and after the local candidate for governor had spoken, the next speaker was told to keep on talking until I arrived. The hand-bills had announced me as "The Honorable," etc., which not only surprised me, but afterwards deceived the committee in charge itself. When I stepped upon the depot platform I didn't know the committee, and they never suspected me of being "The Honorable," and I sauntered off to the hall. I took a back seat until the speaker closed, and as the time rolled on I thought he was pretty long-winded. Finally, about 11 o'clock, he gave out, saying, "Well, fellow-citizens, I can't kill time any longer, and you can bet your last dollar I'll

never be fooled by one of those fellows out west again." Before I knew it the meeting was over, and we all discovered our mistake.

I remember one night when Governor Hastings was making a speech in a small town in Illinois, before he was elected governor and when he was comparatively unknown in the west. The old chairman said to him as he came upon the stage, "Just write yer name an' where ye live on a kerd, so I won't make no mistake." Hastings wrote hastily, "Mr. Hastings, from Penn." The old man couldn't see any too well, and Hastings' writing wasn't any too good, so you may imagine Hastings' surprise when he was introduced in this manner: "The next speaker is from a Democratic state. I don't know why they sent him to talk Republicanism in Illinois, but I'll introduce him anyway. Mr. Haskins, from Tennessee."

The size of the audience is dependent upon newspaper advertising in advance and the personal popularity of the speakers. Eliminate the newspaper advertising and you will have vacant seats. After the meeting, however, accounts published in the average newspaper outside of the large cities are an interesting study the next morning. Here is an instance: "During the last campaign in a large town not far from Pittsburgh, a Republican speaker found himself touched up as follows, the next morning:

"At the Opera House last night ——, of ——, made one of the most eloquent speeches heard here for years. He tore the Democratic arguments to shreds and carried his audience off its feet by his thrilling eloquence and finished address. The house was packed to the doors."

The Democratic paper said:

"Seventeen white men, three colored men, nineteen boys and an old woman composed the entire attendance

at the Republican meeting in the Opera House last night. It was a frost. The water froze in the pitcher on the speaker's table. The quartet sang as if it was working for small wages and had little hope of getting its money. The speech of —— was one of the most gigantic compositions of wind and falsehood ever heard in this town. He was introduced as 'Major' ——, but it is said he acquired the military title by leading a drum corps when he was a boy."

Of course the campaigner reads these notices and smiles. He looks upon them as one of the penalties of politics and there it ends.

Burleigh, Clarence.— The jeweled wit and charming humor of Burleigh, of the Pittsburgh bar, are widely known. To a client making the inquiry, his definition of a *contingent fee*, "If you lose, I get nothing; if you win, you get nothing," is a gem.

Not less brilliant was his reply to the question, *What is the Rule in Shelley's Case:* "The lawyers get the oyster and the clients get the shells."

As attorney for the city of Pittsburgh, Burleigh's opinions were the court of last resort in legal matters affecting the municipality and its administrative departments; and he expressed them in a clear and vigorous style. Conflicting views having arisen between him and a prominent city official, he quickly closed the discussion with the latter by saying: "You may be right, and I may be wrong; but my opinion is worth more than yours, because my opinion decides the question, and yours does not."

A *prima facie* case: "A case good in front and bad in the rear."

Burr, Aaron.— Burr was admitted to the New York bar in 1782. His election to the United States Senate and to the Vice Presidency, and his subsequent trial for treason, are matters of history.

He asserted that the maxim, "Never put off until to-morrow what can be done to-day," was made for sluggards. A better reading of it is, "'Never do to-day what you can do as well to-morrow;' because something may occur to make you regret your premature action."

He defined law: "Law is whatever is boldly asserted and plausibly maintained."

In a letter to Pichon, secretary of the French Legation at Washington, Burr said:

"The rule of my life is to make business a pleasure, and pleasure my business."

Bushe, Charles Kendal.— Bushe was one of the most eloquent men of his time. The might of his reasoning, the music of his diction, and the absolute enchantment of an exquisite delivery won him signal success at the Irish bar. His wit came without effort.

At a private theatrical entertainment, when pressed for an opinion, Bushe said that he preferred the *prompter;* for he heard the most and saw the least of him.

At a dinner given by a Dublin Orangeman, when politics ran high, and Bushe was suspected of holding pro-Catholic opinions, the host indulged so freely that he fell under the table. The Duke of Richmond, who was then viceroy, picked him up and replaced him in the chair.

"My Lord Duke," said Bushe, "though you say I am attached to the Catholics, at all events I never assisted *at the elevation of the Host.*"

Sir Robert Peel, who was present, related this *bon-mot:*

One of Bushe's relations, who rarely indulged in any ablutions, complained of a sore throat.

"Fill a pail with hot water until it reaches your knees; then take a pint of oatmeal and scrub your legs with it for a quarter of an hour," was what Bushe recommended as a remedy.

"Why, hang it, man," said the other, "that's *washing one's feet.*"

"I admit, my dear fellow," replied Bushe, gravely, "it *is* liable to *that* objection."

Someone having remarked that the judges of the Court of Common Pleas had little or nothing to do, Bushe quietly remarked, "Well, well, they're quite *equal to it.*"

Once, when two bishops declared that, in choosing the officers of the Ecclesiastical Board, they must vote for the nominees of the minister, to whom they owed their mitres, Bushe sent the following slip to Plunket:

"It is he that hath made us and not we ourselves: we are his people, and the sheep of his pasture."

Chief Baron O'Grady was trying a case in an assize town where the court-house abutted on to the fair green and a fair was in progress. Outside the court were tethered a number of asses. As counsel was addressing the court, one of these began to bray. Instantly the Chief Baron stopped the speaker. "Wait a moment, Mr. Bushe; I can't hear two at a time." The court roared, and the advocate grew red. But presently, when it came to the summing up, the judge was in full swing when another ass struck in, whether by the counsel's contrivance or not, who shall say? Anyhow, up jumped Bushe with his hand to his ear. "Would your lordship speak a little louder? there's such an echo in the court."

Bushe made this impromptu verse upon two agitators who had refused to fight duels, one on account of his affection for his wife, and the other because of his love for his daughter:

> Two heroes of Erin, abhorrent of slaughter,
> Improved on the Hebrew command;
> One honored his wife, and the other his daughter,
> That his days might be long in the land.

Butler, Benjamin F.—In one of his first law cases Butler said, when the case was called:

"Let notice be given."

"In what paper," asked the venerable clerk.

"In the Lowell *Advertiser*," said Butler, selecting a local paper detested by the political party to which the clerk and the judges belonged.

"The Lowell *Advertiser!*" said the clerk, restraining his feelings. "I don't know such a paper."

"Pray, Mr. Clerk," said Butler, "don't begin telling the court what you don't know, or there will be no time for anything else."

One of the very last cases in which that distinguished advocate, Rufus Choate, appeared, was an action for damages for personal injuries to his client. Associated with him were two other leaders of the bar. The three together made up a trio of legal ability of the very highest order. For the defence stood Butler, single-handed, and apparently inattentive to the progress of the trial. He took no notes, but a little occurrence soon brought him to his feet, and proved that he was awake and at his post. A question had been asked a witness, the answer to which seemed to damage the plaintiff's prospects. One of the trio, in apparently a by-play to his associates, gave a slight

groan of incredulity, doubtless intended for effect on the jury. In an instant up sprang the vigilant Ben.

"Stop! stop! stop!" cried he, in his impetuous way to the witness.

"What is the matter, Mr. Butler?" asked the judge, taken by surprise at the interruption.

"May it please your honor," replied the imperturbable advocate, in the blandest of accents, "my brother L—— is taken suddenly ill. Did you not hear him groan just now? The court might like to take a short recess, I thought."

"Proceed with the examination of the witness. Let there be no more interruption," said the judge. But the object of the interruption was accomplished: the effect, or intended effect, of the enemy's gun was neutralized.

Butler being for the defence, of course had to address the jury first, in the closing arguments. His analysis of the special characteristics of his three opponents was acute and discriminating. To each of them he ascribed the highest of tact and talent in his own department. But to his brother Choate he gave more than common encomium: "He is retained in every great case, to lend to it the power of his rare abilities to obtain a verdict. Such, gentlemen of the jury, is the charm of his eloquence that he has only to wave over you his magic wand, and you are so completely mesmerized by his will that you will say black is white, and white black, if he only says it is so. You are wholly under the bewitching influence of his eloquence, and are led by it whithersoever he chooses to lead you. You start, gentlemen; you brace yourself back with a determined air, as if to say, however it may be with others, you are proof against his blandishments. Ah, gentlemen, little do you know the

power of the spell that will soon be upon you! I have myself seen it in so many instances that I speak with confidence and certainty on this point." And so he went on to depict the *Choatean* style of eloquence, with a slight allusion to the famous somnambulist line of defence in the Tyrrell case, till he had succeeded in fortifying the jury against the last words — always the most potent — of the closing argument.

Choate arose, evidently not in good health, pale and emaciated, the deep lines of his classic face tremulous with emotion, and in his very exordium complained bitterly and earnestly of the injustice done him by the caricature drawn so wantonly and maliciously by the counsel for the defence, asserting over and over again that he was a far different man, and his eloquence — such as he had — far different from that attempted to be fastened on him; that, in short, he was a plain-spoken man, accustomed to use only such common sense as his Maker had given him, and such a presentation of the facts in any case as the testimony warranted. He then proceeded to verify his assertion by a corresponding style of eloquence and argument, entirely unusual with him, and only feebly, for him, put the case to the jury. The damaging effect of Butler's novel tactics was evident from beginning to end; and the jury did not agree upon a verdict, which was equivalent to one for Butler's clients.

Butler and Judge Hoar met as opposing counsel in an action for damages for loss of life, brought before the Massachusetts Supreme Court. Butler cited from Job, "Yea, all that a man hath will he give for his life." Hoar remarked that that was a plea of the devil in a motion for a new trial, and he didn't think the court would be more impressed by it because of its modern endorsement.

"How high was the dam?" asked Butler of a stubborn witness.

"About twenty feet."

"What was there on top of the dam?"

"A log."

"What did the log rest on at the east end?"

"On a rock."

"What did the west end rest on?"

"Don't know."

The General dropped his pen suddenly and sharply cried out:

"You don't know? Why don't you know?"

The witness changed the cross of his legs and shifted his quid to the other cheek and then replied:

"Because I don't."

The General got up enthusiastically, and pointing his index finger at the witness shrieked out:

"Do you mean to say to this court and jury that you can't tell what the west end of the log rested on?"

"Certainly I do."

"When did you see the log last?"

"Day before yesterday."

"And didn't you see the west end of the log?"

"No."

"Now, on your oath, why can't you tell what the west end of that log rested on?"

"Because the west end was stuck in the bank."

The tipstaff rapped and cried out "Silence" to the laughing crowd.

The reason that Butler was not made an LL. D. by Harvard University when he was Governor of Massachusetts dates back almost to the time that Prof. Webster, of that institution, was executed for murder. The Gen-

eral, in cross-examining a Harvard professor, asked him what his trade was.

"I'm a professor in Harvard College."

"A what?"

"A Harvard professor."

"Oh, yes. We hung one of them the other day."

While Butler was delivering a speech in Boston during an exciting political campaign, one of his hearers cried out: "How about the spoons, Ben?" Benjamin's good eye twinkled merrily as he said: "Now, don't mention that, please. *I was a Republican when I stole those spoons.*"

Cady, Daniel.—Many a city lawyer has gone into the country districts to try a case where he would have a country lawyer pitted against him, and has learned sometimes to his disgust, as well as to his surprise, that the country lawyer was a great deal more than a match for him upon every point. Daniel Cady, great in his day and generation, was a country lawyer in a little town in New York. A leading lawyer of New York City went to try a case in which Cady was counsel on the other side, and on his way stopped at Albany to borrow a few law books from Nicholas Hill, to whom he said that he was going up into the country to literally "chew up a fellow named Cady." The New York City lawyer had apparently never heard of Cady before, and Hill quietly remarked:

"I know something of that man Cady. When you get through with him stop in my office and tell me what kind of a man he is."

The city lawyer returned one week later and informed Hill that he had just been defeated in an important case

by that man Cady, who was the greatest lawyer he had ever met.

When Cady had a case to argue, his labor on the details was enormous. He took it to his bed and board; had inspirations concerning it in his sleep; repeatedly arose at night to secure these by memoranda; and never ceased to mine and chamber in a great case, till it was actually called on the calendar. Then were to be seen the equipment and power of a great lawyer.

Campbell, John A.— Judge Campbell was, perhaps, the ablest jurist the state of Alabama ever had. Before the war he had a large practice in Mobile and frequently appeared in the Supreme Court of Alabama. On one occasion the court interrupted him by frequent questions, much to his annoyance. After standing it some time, Campbell stopped, and then, slowly addressing the bench, said:

"If the court will listen, the court will learn."

The court listened, and the interruptions ceased.

Chase, Salmon P.— When Chief Justice Chase chose to unbend himself he could be witty as well as wise. At a social gathering, when he was Secretary of the Treasury, the subject of taxation having been mooted, a distinguished naval officer present said he had paid all his taxes except the income tax. "I have a little property," said he, "which brings me in a yearly rental, but the tax-gatherers have not spotted it. I do not know whether I ought to let the thing go that way or not. What would you do if you were in my place, Mr. Chase?"

There was a merry twinkle in the eyes of the Secretary, as he answered archly: "I think it the duty of every man to live unspotted as long as he can."

Charge of Court.— Whenever Lord Bowen allowed free play to his powers of irony, his charges to the jury were most entertaining. While on circuit, he tried a burglar who had entered a house from the roof and left his boots on the tiles, and who alleged, by way of defence, that he was accustomed to take midnight strolls on the roofs of dwellings, and that he had simply been led by a feeling of curiosity to descend into one of the houses.

"If, gentlemen of the jury," said Bowen, "you think it probable that the prisoner considered the roofs of houses a salubrious place for an evening walk — if you suppose that the temptation to inspect the interior of the houses beneath him was the outcome of a natural and pardonable curiosity — in that case, of course you will acquit him, and regard him as a thoughtful and considerate man, who would naturally remove his boots before entering the house and take every precaution not to disturb his neighbors."

In an action to recover damages for an assault and battery tried before an eminent judge of a district in Western New York, the judge sympathized very strongly with the defendant, and charged:

"Gentlemen of the jury, if the plaintiff had met *me* walking along the street with my wife on my arm, and had called me what it is not denied he called the defendant, I would have knocked him down, just as the defendant did. *But*, gentlemen of the jury, *that is not the law.* You may take the case, gentlemen."

The jury gave the plaintiff six cents damages without leaving their seats.

Judge Hammond, of the United States District Court, tells a good story on himself. When he first went on the

bench he was anxious that his charges to the jury should be clear and easily understood. One of the first cases tried was a very important one, and he was particularly careful in drawing up his instructions. He read them impressively to the jury, and they retired to their room. In about an hour they returned to the court room and requested his honor to read the charge again, which was done, and they filed back to the jury room. After another long wait, a knock was heard at the door. On being opened by the bailiff, one of the jurymen asked to speak with the court. It was one of Judge Hammond's old clients, and he apologized for troubling him by saying that he knew him better than any of the other jurors, and was asked to put a question to him on behalf of the jury.

"You see, Bill," said the juror, "you and me have known each other a good while, and you know I wouldn't ask anything I thought wasn't right of you."

After some assurance from the court that he could not offend, the juror said:

"See here, Bill, the jury want to know whether you would have any objections if we would hire a lawyer to explain your charge to us."

Justice Maule would occasionally talk to the jury in a style that they could not well misunderstand. He once said:

"Gentlemen, the learned counsel is perfectly right in his law; there is *some* evidence upon that point; but he's a lawyer, and you're not, and you do not know what he means by *some* evidence; so I'll tell you. Suppose there was an action on a bill of exchange, and six persons swore they saw the defendant accept it; and six others swore they heard him say he should have to pay it; and six others knew him intimately and swore to his handwri-

ing; and suppose on the other side they called a poor old man, who had been at school with the defendant forty years before, and had not seen him since, and he said he rather thought the acceptance was not the defendant's writing, why there'd be *some* evidence that it was not; and that's what Mr. —— means in this case."

Lord Denman once said: "I remember an action tried before Gibbs, C. J., brought against Alderman Wood by a man whom he had sentenced to be imprisoned; and it was contended that the imprisonment was illegal, because the sentence did not also direct that he should be whipped. Gibbs said to the jury: 'Give the plaintiff the full damages he has sustained by reason of not having been whipped.'"

An odd story describes the arithmetical process by which Baron Perrot arrived at the value of conflicting evidence: "Gentlemen of the jury, there are fifteen witnesses who swear that the watercourse used to flow in a ditch on the northern side of the hedge. On the other hand, gentlemen, there are nine witnesses who swear that the watercourse used to flow on the south side of the hedge. Now, gentlemen, if you subtract nine from fifteen, there remain six witnesses wholly uncontradicted; and I recommend you to give your verdict for the party who called those six witnesses."

Justice Maule was trying a hypocritical saint on a criminal charge. The defendant called a number of character witnesses, whose knowledge of his good reputation was very limited. On one point, however, they laid considerable stress. The prisoner was well known to them as a Bible reader and a Sunday School teacher. He was, in fact, in their opinion, the very incarnation of piety and virtue.

The evidence against the accused was overwhelming, and Maule proceeded, in no uncertain language, to sum up for conviction. On the conclusion of the learned judge's remarks, the prisoner's counsel said:

"I crave your lordship's pardon; you have not referred to the prisoner's good character, as proved by a number of witnesses."

"You are right, sir," said his lordship; and then, addressing the jury, he continued: "Gentlemen, I am requested to draw your attention to the prisoner's character, which has been spoken to by gentlemen, I doubt not, of the greatest respectability and veracity. If you believe them, and also the witnesses for the prosecution, it appears to me that they have established what to many persons may seem incredible, namely, that even a man of piety and virtue, occupying the position of Bible reader and Sunday School teacher, may be guilty of committing a heinous and grossly immoral crime."

Daniel Webster, in his arguments before juries, sometimes read the conclusion of a charge by Judge Dudley, a trader and a farmer, a manuscript copy of which he had for many years in his desk. It was a treat to hear him read it in pure and undefiled English, as it doubtless came from Judge Dudley's lips:

"You have heard, gentlemen of the jury, what has been said in this case by the lawyers, the rascals! but no, I will not abuse them. It is their business to make a good cause for their clients; they are paid for it, and they have done in this case well enough; but you and I, gentlemen, have something else to consider. They talk of law. Why, gentlemen, it is not law that we want, but justice. They would govern us by the common law of England. Trust me, gentlemen, common sense is a much safer guard for us; the common sense of Raymond,

Epping, Exeter, and the other towns which have sent us here to try this case between two of our neighbors. A clear head and an honest heart are worth more than all the law of all the lawyers. There was one good thing said at the Bar. It was from one Shakespeare, an English player, I believe. No matter, it is good enough almost to be in the Bible. It is this: 'Be just and fear not.' It is our business to do justice between the parties, not by any quirks of the law out of Coke or Blackstone, books that I have never read and never will, but by common sense and by common honesty, as between man and man. That is our business, and the curse of God is upon us if we neglect or evade or turn aside from it."

Judge ——, of Georgia, was noted for the way he got mixed in his charges to the jury. On one occasion a case was tried before him, in which Smith had sued Jones upon a promissory note given for a horse. Jones's defense was failure of consideration, averring that at the time of purchase the horse had the glanders, of which he died, and that Smith knew it. Smith replied that the horse did not have the glanders, but the distemper, and that Jones knew it when he bought him. The judge charged the jury:

"Gentlemen of the jury, you have already made one mistrial of this case because you did not pay attention to the charge of the court, and I don't want you to do it again. I intend to make it so clear that you cannot possibly make any mistake. This suit is upon a note given for a promissory horse. I hope you understand that. Now, if you find that at the time of the sale Smith had the glanders, and Jones knew it, Jones cannot recover. That is clear, gentlemen; I will state it again. If you find that at the time of the sale Jones had the distemper, and Smith knew it, then Smith cannot possibly

recover. But, gentlemen, I will state it a third time, so that you cannot possibly make a mistake. If at the time of the sale Smith had the glanders, and Jones had the distemper, and the horse knew it, then neither Smith, Jones, nor the horse can recover."

The following charge was given to an Indiana jury:

"If you find from the evidence that the defendant said, when speaking of this money, with reference to himself and Nan, his wife, that 'we got it'; that 'we got it the night Uncle Jackey Martin's wife lay a corpse'; that Uncle Jackey Martin had between three and four thousand dollars stolen the night his wife lay a corpse; and in attempting to account for these statements, or any of them, the defendant said, with reference to how they got it, that 'Nan got the keys and unlocked the trunk, and took out the comfort and handed it out through a window to me'; and if you also find that this money was kept in a comfort, and that the comfort was kept in a trunk, and the trunk had keys,— then you have a right to make the following inquiries, and ascertain from the evidence, if you can, whether or not Uncle Jackey Martin's wife ever lay a corpse; whether or not he ever kept any money in a comfort; whether or not he kept the comfort in a trunk; whether or not he kept the trunk locked; where he kept the trunk; where he kept the keys to that trunk, if any; what opportunities, if any, the defendant or Nan Dean had to know of Uncle Jackey Martin having any money; what opportunities they had of knowing whether or not he kept it in a comfort, and, if so, where he kept the comfort, and, if he kept the comfort in a trunk, where was the trunk the night Martin's wife lay a corpse; and whether John Dean and Nan Dean had opportunity of access to said trunk on that night; and whether or not they had, or either of them had, access to the keys of the

trunk; and the length of time after such opportunity, if any, until such statements were made; and the probability of such statements having been made unless they were true. And if you find from the evidence, beyond a reasonable doubt, that such statements were made, and they were true, and that it occurred in Sullivan county, Indiana, within two years before the commencement of this action, your plain duty is to find the defendant guilty."

The only thing the jury seems to have gathered from the charge was, that it was its plain duty to find the defendant guilty, which it accordingly did.

A Georgia justice of the peace once took upon himself to charge a jury: "Gentlemen, this is a case which has been tried by me before, and I decided in favor of the defendant." As the jury took the hint and found for the defendant just as the justice had done before, although the evidence was overwhelmingly in favor of the plaintiff, the higher court refused to let the verdict stand. It also commented as follows:

"A justice of the peace is generally a man of consequence in his neighborhood; he writes the wills, draws the deeds, and pulls the teeth of the people; also he performs divers surgical operations on the animals of his neighbors. The justice has played his part on the busy stage of life from the time of Mr. Justice Shallow down to the time of Mr. Justice Riggins. Who has not seen the gaping, listening crowd assembled around his honor, the justice, on tiptoe to catch the words of wisdom as they fell from his venerated lips?

"'And still they gazed,
And still the wonder grew,
That one small head
Could carry all he knew.'"

Maule said to a jury in a larceny case: "If a man goes into the London Docks sober, without the means of getting drunk, and comes out of one of the cellars wherein are a million gallons of wine, very drunk, I think that would be reasonable evidence that he had stolen some of the wine in the cellar, though you could not prove that any wine was stolen or wine missed."

Choate, Joseph H.— Choate, of New York—a great leader of the bar, and a bright after-dinner speaker—possesses a fine wit and a polished humor. His fame as an after-dinner speaker was mainly won by the remarkable addresses at the dinners of the New England Society, of which he has often been elected President, those gatherings, as he calls them, "of an unhappy company of Pilgrims, who meet annually at Delmonico's to drown the sorrows and sufferings of their ancestors in the flowing bowl, and to contemplate their own virtues in the mirror of history."

Perhaps one of the best of his brief remarks was his toast to the fair sex. "And then, Women — the better half of the Yankee world — at whose tender summons even the stern Pilgrims were ever ready to spring to arms, and without whose aid they never could have achieved the historic title of the Pilgrim fathers. The Pilgrim mothers were more devoted martyrs than were the Pilgrim fathers, because they not only had to bear the same hardships, but they had to bear with the Pilgrim fathers besides."

Choate was master of ceremonies at a banquet at which Chauncey M. Depew and Horace Porter were twin stars. Choate's face fairly beamed with delight as he rose to extend a greeting:

"I am sure you would not allow me to quote this pleas-

ing programme if I did not felicitate you upon the presence of two other gentlemen — those twin-rail fellows, well met at every festive board, without whom no banquet is ever complete. I mean, of course, Mr. Depew and General Porter. Their splendid efforts on a thousand fields like this have fairly won their golden spurs.

"I forget whether it was Pythagoras or Emerson who *finally* decided that the soul of mankind is located in the stomach, but these two gentlemen, certainly, by their achievements on such arenas as this, have demonstrated that the pyloric orifice is the shortest cut to the human brain. Their well-won title of the first of dinner orators is the true survival of the fittest, for I assure you that would long ago have laid all the rest of us under the table, if not under the sod. And so I think in your names I may bid them welcome, thrice welcome — *duo fulmina belli.*"

Choate has no fear of those above him in authority. He carries his suave manner and absolute independence into the very teeth of judges and juries. An excellent example of this happened before Justice Van Brunt, who had a habit, often distressing to members of the bar, particularly young ones, of talking to his associates on the bench while the lawyers were delivering their arguments. As often as he had exasperated attorneys none of them had ever had the temerity to complain. Choate was about to make the closing argument in a highly important case. Forty minutes had been allotted him for the purpose. He had scarcely uttered a dozen words when Judge Van Brunt wheeled about in his chair and began talking to Judge Andrews. Choate ceased speaking immediately, folded his arms and gazed steadily at the judges, his handsome face a trifle paler than usual. A hush fell upon the court-room. Judge Van Brunt, noticing the stillness,

turned around and looked inquiringly at the silent advocate.

"Your Honor," said Choate, "I have just forty minutes in which to make my final argument. I shall not only need every second of that time to do it justice, but I shall also need your undivided attention."

"And you shall have it," promptly responded the judge, at the same time acknowledging the justice of the rebuke by a faint flush on his cheeks. It was an exhibition of genuine courage much appreciated by members of the profession.

When Choate was questioned regarding the secret of success, he turned upon his interviewer and asked him to "define success." The latter answered, "The acquisition of wealth, ease, comfort and reputation." But Choate replied, "Many men succeed without winning any one of these, and character is the vital thing, after all. Otherwise, there is nothing to choose between honorable fame and mere notoriety, and Benedict Arnold would rank on a par with Washington, or Jeffries with Chief Justice Marshall."

One of Choate's wittiest sayings was made over a private dinner table at which he and Mrs. Choate were guests. Some one inquired of him who he would like to be if he could not be himself. He paused a few seconds, as if thinking over the list of the world's celebrities, and then his eye rested upon his wife: "If I could not be myself, I should like to be Mrs. Choate's second husband."

Who will forget Choate's adaptation of Mother Goose in the great Van Wyck-Tracy-Low campaign of 1897, at Carnegie Hall? Choate took the stump for Low. The Republican machine was determined on but one thing—that Low should not be elected—and was aiding Van

Wyck, Mr. Croker's candidate, in every way. Pausing in his description of the alliance between the two great political parties, Choate quoted:

> Tom Platt
> Could eat no fat,
> Croker could eat no lean,
> And so between them both,
> I quoth,
> They licked the platter clean.

In the million dollar Hurlbert inheritance case, Choate tangled up a witness in a maze of contradictions, finally saying: "Then you told a falsehood simply because you thought it customary, eh? '

"Well, if you keep forcing me, I will have to keep going in a circle to explain," answered Mr. Hurlbert.

"Go ahead," retorted Choate, "I'll follow you to the end."

"To the end of a circle?" murmered Lawyer Parsons, Choate's opponent.

But Choate retaliated the next day, when a witness testified that the Hurlbert family had family prayers morning and night. "Family prayers?" repeated Parsons, in a questioning tone. "Family prayers," repeated the witness.

"Yes," continued Choate; "don't you know what they are, Brother Parsons?"

Choate is a fine Shakesperian scholar. Once he and Roscoe Conkling were pitted against each other, in the Huntington railroad suit. Choate had nettled Conkling, and Conkling retorted by reading in court a most flamboyant and flattering description of Choate, printed in a newspaper. The court and jury were convulsed with Conkling's comments. Quick as a flash Choate said he would let the description go without objection if the court

would permit him to file for his side an exhibit of Conkling, drawn by immortal pen, and quoted off-hand from Shakespeare:

> See what a grace is seated on this brow;
> Hyperion's curl, the front of Jove himself;
> An eye, like Mars, to threaten and command—
> A combination and a form indeed,
> Where every god did seem to set his seal,
> To give the world assurance of a man.

Choate's address at the unveiling of the statue of Rufus Choate, in Boston, is an eloquent tribute to the memory of the latter:

"He came of a long line of pious and devout ancestors, whose living was as plain as their thinking was high. It was from father and mother that he derived the flame of intellect, the glow of spirit, and the beauty of temperament that were so unique.

"And his nurture to manhood was worthy of the child. It was 'the nurture and admonition of the Lord.' From that rough pine cradle, which is still preserved in the room where he was born, to his premature grave, at the age of fifty-nine, it was one long course of training and discipline of mind and character, without pause or rest. It began with that well-thumbed and dog's-eared Bible from Hog Island, its leaves actually worn away by the pious hands that had turned them, read daily in the family from January to December, in at Genesis and out at Revelation every two years.

"And upon this solid rock of the Scriptures he built a magnificent structure of knowledge and acquirement, to which few men in America have ever attained. . . . His splendid and blazing intellect, fed and enriched by constant study of the best thoughts of the great minds of the race, his all-persuasive eloquence, his teeming and radiant imagination, whirling his hearers along with it,

and sometimes overpowering himself, his brilliant and sportive fancy, lighting up the most arid subjects with the glow of sunrise, his prodigious and never-failing memory, and his playful wit, always bursting forth with irresistible impulse, have been the subject of scores of essays and criticisms, all struggling with the vain effort to describe and crystallize the fascinating and magical charm of his speech and his influence."

The price paid for his success is described in these words: "Think of a man already walking the giddy heights of assured success, already a Senator of the United States from Massachusetts, or even years afterward, when the end of his professional labors was already in sight, schooling himself to daily tasks in law, rhetoric and oratory, seeking always for the actual truth, and for the 'best language' in which to embody it — the 'precisely one right word' by which to utter it,— think of such a man, with all his ardent taste for the beautiful in every domain of human life, going through the grinding work of taking each successive volume of the Massachusetts Reports as they came out, down to the last year of his practice, and making a brief in every case in which he had not been himself engaged, with new researches to see how he might have presented it, and thus keeping up with the procession of the law. Verily 'all things are full of labor; man cannot utter it; the eye is not satisfied with seeing, nor the ear filled with hearing.'"

Choate, Rufus.— Choate's eloquence was unique, brilliant, fascinating, indescribable. To every subject and effort he brought his full power of thought and feeling, of imagination and wit. The dullest and driest theme he invested with interest, and illuminated by the lights which he flashed upon it from all sources. His logic was con-

cealed by the profusion of graceful imagery, but whoever attempted to break the chain was sure to find links of steel beneath the garland of flowers. His mind was deeply reverential towards God. He died in the full strength of his powers, untouched by age, in the fullness of his fame, and in the midst of universal love and respect

We join ourselves to no party that does not carry the flag and keep step to the music of the Union.— *Letter to the Whig Convention.*

Dr. Storrs studied law in Choate's office, and says of him:

I never knew of a mind of such compass as his, so energetic and so affluent, which heated so quickly. It was like a superb Corliss engine, driven for days with a bushel of coal. The mere attrition of any case, where the facts were in doubt and the principles obscure, was enough to set his whole force in activity. . . . Weakness, languor, sickness itself, vanished before this invincible spirit. Haggard, wan, after a night of sleepless suffering, his throat sore, his head throbbing, swathed in flannels, buried under overcoats, with wrappings around his neck, a bandage on his knee, a blister on his chest, when he rose for his argument, all facts reported by witnesses in the case, all the related and governing precedents, all legal principles bearing upon it, all passages of history, letters, life, that might illustrate his argument or confound his antagonist's, seemed visibly present in his mind. He thought of nothing but jury and verdict. His eloquence was then as completely independent of technical rule as are screams of passion or the shouts of a mob. He was after a favorable decision of a case as if his own life depended on it. Short, sharp, shattering words rattled like volleys before and after resounding sentences.

Language heaped on his lips. Images, delicate, homely, startling, blazed upon his pictured words. The common court-room became a scene of the most astonishing intellectual action. Judge Shaw looked at him as he might have looked at the firm-set heavens, glittering with meteors. The farmers, mechanics, traders, on the jury, were seized, swept forward, stormed upon, with an utterance so unbounded in variety and energy, sometimes so pathetic, sometimes so quaint, sometimes so grotesque, always so controlling and impellent, as only his hearers ever had heard. The velocity of his speech was almost unparalleled, yet the poise of his mind was as undisturbed as that of the planet; and each vague doubt, in either mind, was recognized and combated, unconscious prejudices were delicately conciliated, each tendency toward his view of the case was encouraged and confirmed, each leaning toward his opponent was found out and fought, with a skill which other men toiled after in vain, which seemed in him a strange inspiration.

Choate became the actor in the cause — throwing his whole soul into the issue. But there his duty ended; and there, with the trial over, its worries were cast aside and forgotten. "I sometimes feel," he said, "when a case has gone against me, like the Baptist minister who was baptizing a crowd of converts through a hole in the ice. One brother — Jones, I think — disappeared after immersion, and did not re-appear; probably drifted ten or fifteen feet from the hole, and was vainly gasping under ice as many inches thick. After pausing a few minutes, the minister said: 'Brother Jones has evidently gone to kingdom come: bring on the next.' Now, I am not unfeeling; but after all has been done for a client that I could do,— and I never spared myself in advocating his legal rights,— the only thing left for me is to dismiss the case from my

mind, and to say with my Baptist brother, 'Bring on the next.'"

That this habit of mind was entirely disconnected from any languid abandonment of the cause of his client while there was the slightest hope of saving him, is humorously shown in a letter which Professor Brown publishes in his biography, relating to a cause decided against his clients by the Supreme Court at Washington. "The court," he wrote to the Washington lawyer engaged with him in the cause, "has lost its little wits. Please let me have (a) our brief — for the law; (b) the defendant's brief — for the sophistry; (c) the opinion — for the foolishness; and never say die."

The august Supreme Court of the United States, which Choate was accustomed publicly to celebrate as the perfection of wisdom and equity, was never so disrespectfully treated as in this deliciously impudent private letter. The humor of it could hardly have been exceeded by Swift, Sterne, or Sydney Smith.

Choate occasionally used an expression so whimsical as to convulse the court. It was caught up and passed from one to another as current coin. The more grotesque the utterance, the better for the gossips, the more certain to give the public exaggerated notions of his method and style. Yet it was well to expose a fallacy by some incisive word, an epithet or epigram, when that could be done effectively. It saved time and made the error significant. When a State line was proposed, with landmarks of an unstable character — a couple of stones by a pond, and a buttonwood sapling in a village — it may have been pertinent to say that "the commissioners might as well have defined it as starting from a blue-jay, thence to a swarm of bees in hiving time, and thence to five hundred foxes with firebrands tied to their tails."

Of Judge Shaw, the distinguished but gruff chief justice of Massachusetts, Choate remarked that the bar regarded him as the East Indians did their wooden god: "They know that he is ugly, but they feel that he is great."

When told that the next edition of Worcester's Dictionary would contain twenty-five hundred new words, the same chief justice exclaimed:

"For Heaven's sake, don't let Choate get hold of it!" alluding to the extraordinary amplitude of the great advocate's style.

On his election to Congress, Choate was asked by a lady why Mrs. Choate did not accompany him to Washington.

"I assure you, Madam," he replied, "that I have spared no pains to induce her to come. I have even offered to pay half her expenses."

"Choate's wit and humor," says the Hon. M. H. Carpenter, "were all the more effective from the fact that God never put upon a man, except perhaps Lincoln, so sad a face. During all the time I was with him, his health was more or less disturbed, and his face was eloquently expressive of constant anguish. Many a time I have seen him come into the office from the court room, the personification of weariness and sorrow, so much so that often merely looking in his face has forced the moisture to my eyes. But the tear never reached my cheek before he would set me laughing with some quaint remark. I remember his coming into the office and telling me that the Supreme Court of Massachusetts had just decided an important case against him, evidently to his great surprise. He threw down some books and papers on his desk, and after telling me of the decision, added

in a half-serious, half-playful way: '*Every judge* on that bench seems to be more stupid *than every other one;* and if I were not afraid of losing the good opinion of the court, I would impeach the whole batch of them.' Yet, notwithstanding such badinage, his reverence for the court, and especially for Chief Justice Shaw, was unbounded."

When blamed for endangering his constitution by ceaseless overwork, Choate replied:

"Good heavens, my dear fellow! my *constitution* was all gone years ago, and I'm living on the by-laws."

Of a lawyer known to be as contentious as he was dull-witted, Choate said:

"He's a bull-dog, with confused ideas."

Choate rarely failed to show mental supremacy anywhere, and generally came off with flying colors from any play of wit with judge, lawyer or witness, but occasionally found his match and was silenced.

In an important assault and battery case at sea, Dick Barton, chief mate of the clipper ship *Challenge*, was on the stand, and Choate badgered him so for about an hour that Dick got his salt water up, and hauled by the wind to bring the keen Boston lawyer under his batteries.

At the beginning of his testimony Dick said: "The night was dark and rainy."

Suddenly Choate asked him:

"Was there a moon that night?"

"Yes, sir."

"Ah, yes! a moon"—

"Yes, a full moon."

"Did you see it?"

"No, sir."

"Then how do you know there was a moon?"

"The 'Nautical Almanac' said so, and I will believe that sooner than any lawyer in the world."

"What was the principal luminary that night?"

"Binnacle lamp aboard the *Challenge*."

"Ah! you are growing sharp, Mr. Barton."

"What in blazes have you been grinding me this hour for — to make me dull?"

"Be civil, sir! And now tell me in what latitude and longitude you crossed the equator."

"Oh, you're joking!"

"No, sir, I am in earnest, and I desire an answer."

"Which is more than I can give."

"Indeed! You are the chief mate of a clipper ship, and unable to answer so simple a question?"

"Yes! — the *simplest* question I ever had asked me. I thought every fool of a lawyer knew there is no *latitude* at the equator."

That shot silenced the great lawyer.

Choate had no false pride of opinion, and could laugh at his own mistakes as readily as others. After witnessing in court one day, with two or three others, the queer rulings of a certain judge who had made himself somewhat conspicuous in his mode of conducting trials, one of them turned to him and said, "Let us see, did you not join in a petition to have this man appointed?" "Headed it," said Choate, with the quietest possible humor.

Choate, whose success with juries was phenomenal, used to say: "Carry the jury at all hazards; move heaven and earth to carry the jury, and then fight it out with the judges on the law questions as best you can."

In an important mercantile case in which Choate was counsel, the jury was composed mostly of farmers and drovers drawn from the western part of Massachusetts,

and it was feared that they would hardly be capable of doing justice to the merits of a complicated commercial transaction, the very phrases and figures of which they were necessarily incompetent to apprehend. His anxious client, just before the trial began, asked him what he thought would be the verdict. "Oh," he replied; "the law on our side is as strong as thunder, but" — with a slight shrug of his shoulders — "what those bovine and bucolic gentlemen from Berkshire may say, God only knows!"

When a witness, described himself as a "candle of the Lord — a Baptist minister," Choate replied:

"Then you are a dipped, but I hope not a wick-ed, candle."

At the trial of a cashier of one of the Boston banks, charged with embezzlement, Choate, defending, argued that the cashier was compelled to do what he had done by his superior officers, the directors; that *they* had swindled the public and should suffer the punishment. He was proceeding to flay the directors, when one of them in court, in great anger, began to denounce Choate, who, hardly allowing himself to be interrupted, said mildly:

"I beg the director to be seated, as he wishes to be treated with moderation in a court of justice."

And then, instantly breaking into a scream, and with the greatest impetuosity, Choate exclaimed:

"I tell you, gentlemen of the jury, my client was as helpless in the hands of these directors as an infant surrounded by *ten thousand Bengal tigers!*"

Churchill, Lord.— When Lord Randolph Churchill was last in the United States, he visited Philadelphia; and, while collecting statistics relating to the state pris-

ons of Pennsylvania, he was referred to the head of the State Prisons Board, Mr. Cadwalader Biddle. Before calling on Biddle, however, Lord Randolph fell into the hands of some wags of the Union League Club.

"You've got the name wrong," said one of these merry jesters; "it's not Cadwalader Biddle, but Bidcallader Waddle."

"Don't mind what he says, Lord Randolph," exclaimed another; "the real name is Wadbillader Caddle."

A third member took the ex-Chancellor of the Exchequer aside and imparted to him in confidence that he was being gulled on all sides.

"The actual name," confided his false friend, is "Didbollader Widdle."

And when Lord Randolph drove to the Prisons Board that afternoon, he was so much upset that he stammered:

"Will you take this card into Mr. Bid-cad-wid-waddid-dollader, what's his name? I mean the chief of the Board, but I forgot his extraordinary nomenclatural combination."

Clare, Lord.— An Irish barrister, pleading before Lord Clare, got hopelessly mixed over a metaphor in which he had introduced an eagle, and at length had abruptly to stop.

"The next time, sir," said the chancellor, "that you bring an eagle into court, I recommend you to *clip his wings*."

It was of Lord Clare that Curran, who was a political antagonist, said that he reminded him of a chimney-sweep, who had raised himself by dark and dusky ways, and then called aloud to his neighbors to witness his *dirty* elevation.

Clay, Henry.— Clay was the most popular man of his time. "To come within reach of the snare of his speech was to love him." He possessed a wonderful faculty of putting at ease every man with whom he came into social intercourse. A party of gentlemen had come on as a committee of the citizens of one of the western cities, to present him a beautiful silver urn. They were received by Clay with his elegant hospitality, and invited to dinner, at which time it was arranged the presentation should take place. General McMunn, chairman of the committee, was appointed to make the presentation speech, which he had carefully committed to writing and to memory. Bracing himself with two or three extra glasses of wine, and rising to speak, he began:

"Mr. Clay ——." But the words refused to come. His embarrassment was not relieved by another glass; and when, in despair, he put his hand into his pocket and drew forth the manuscript, he was able to read it only in the most bungling style, to his own mortification and that of his friends. Clay responded; and soon after, as McMunn was sitting next to him, Clay said to him:

"What a pity it is, General, that you did not take to public speaking at an earlier period of life; you have all the elements of a great orator."

"Do you think so?" gasped the General.

"Certainly; all you need is *practice*."

McMunn was delighted, and went home thinking that he and Clay were the two greatest men that ever lived.

His loyal heart for the Union will shine for all time in the motto, "I know no North, no South, no East, no West," and in other famous utterances. When Mr. Preston, of Kentucky, told him that the compromise measures of 1850, which he advocated as a means of preserving the

Union, would injure his chances for the Presidency, he replied: "I would rather be right than be President." In his senatorial speech on the compromise measures, he declared: "If Kentucky should to-morrow unfurl the banner of resistance unjustly, I will never fight under that banner. I owe a paramount allegiance to the whole Union,—a subordinate one to my own State." And again he said: "The Senator speaks of Virginia being my country. The Union, sir, is my country."

To a dull, interminable Congressional member who said: "You speak for the present generation, but I speak for posterity," Clay replied: "It seems you are resolved to speak until your audience arrives."

Clay disliked Buchanan of Pennsylvania. On a memorable occasion in the Senate, Clay made a studied attack upon the Democrats, and especially upon General Jackson. Buchanan having replied in a vigorous style, Clay, rising, sarcastically remarked, "that he had made no allusion to the Senator from Pennsylvania. He was referring to the *leaders*, not to the subordinates, of the Democracy."

Clay was addressing an immense crowd in Nashville. The distinguished Democratic statesman, Felix Grundy, resided there. He had a great reputation as a lawyer in criminal cases, and was eminently successful in their defence. At this time, however, he was away on an electioneering tour in support of the Democratic party.

"I had hoped," said Clay, "when I came to Nashville, to have the pleasure of meeting and renewing my acquaintance with my old friend Grundy; but I understand that he is in East Tennessee, at his old business — *defending criminals.*"

A single piece of ready wit, which saved Clay from overwhelming defeat at a critical moment, affords an excellent example of the demands made upon the stump speaker.

In 1816 Clay voted for a new compensation act of Congress. It aroused a tornado of popular wrath. Not even the great Commoner could stand against this, and he sagaciously resolved to try and weather it. Meeting a stanch supporter who had turned against him, he said, "Jack, you have a good flint-lock, haven't you?"

"Yes."

"Did it ever flash in the pan?"

"Once it did, but only once."

"What did you do with it? Did you throw it away?"

"No, I picked the flint, and tried it again."

"Well," said Clay, "I have only flashed once,—on this compensation bill,—and are you going to throw me away?"

"No, Clay, I will pick the flint and try you again."

When all else failed, a simple illustration, drawn from every-day life, sufficed to reach those brave and hardy frontiersmen.

Sam Long, well known as a clown, used to relate a story exhibiting Clay's humor in a pleasant light:

"I remember once we entered Lexington in procession, and it happened that Mr. Clay was driving in at the same time. I brought up the rear of the procession, riding a mule. As he was directly behind me, I turned my face to the mule's tail, and sang out: 'Here we are, fellow-citizens, Wisdom led by Folly!' The people shouted, and Mr. Clay seemed greatly amused. Next day at the circus I made him a speech, in which I advised him to be President of the United States, and take me into his cabinet.

That night he sent me a bottle of the finest wine I ever tasted, with his compliments, saying:

"From the poorest fool to the best clown in the United States."

Cleveland, Grover.— Among the friends of Grover Cleveland, when he was practicing law in Buffalo, was another attorney, but one of rather different stamp fro n the man of destiny. The friend was a bright fellow, but with the bump of laziness abnormally developed. He was not a well-read lawyer, and whenever it was necessary for him to use a decision bearing on any point it was his habit to lounge into Cleveland's office and casually worm the desired information out of his friend's mental storehouse. "Grover" was not so dull as not to appreciate the fact and to resent the sponging — not so much because the process was worthy of that name as because he wished to spur his friend on to more energetic work. One day the friend came in on his usual errand, and when Cleveland had heard the preliminaries usual to the pumping process, the latter told his questioner that he had given him all the information on law matters that he was going to. "There are my books," said Cleveland, "and you're quite welcome to use them. You can read up your own cases."

"See here, Grover Cleveland, I want you to understand that I don't *read law*. I practice entirely by ear, and you and your books can go to thunder."

Returning from a hunting trip down on the coast of North Carolina, Cleveland brought with him a lot of game which he distributed among the members of his Cabinet and other friends. For Mr. Thurber, his private secretary, he selected an old buzzard that had been acci-

dentally shot, and sent it to the latter's house with a pleasant little note, asking if Thurber would be kind enough to accept a rare specimen of wild turkey with the President's compliments. Thurber was very grateful, and invited some friends to dine with him on the President's turkey. The bird was brought upon the table, and turned the edge of the knife when Thurber attempted to carve it. It was as tough as an old tin trunk, and, after many heroic attempts on Thurber's part to cut off a few slices, was sent back to the kitchen.

The next morning when Thurber appeared at the White House, the President greeted him cheerfully and asked how he liked that turkey.

"It was delicious," responded Thurber, "perfectly delicious. We had some friends in to dine with us, and they all pronounced it one of the tenderest and sweetest birds they had ever tasted."

The President, fearing to lose the joke, told the story to several of his Cabinet. But Thurber was too much for them. He insisted to the very end of the Administration that the bird the President sent him was fit for an epicure, and that he never enjoyed a dinner so much. By-and-by the incident developed a proverb, and the President used to remark that this, that or the other thing was "as fine as Thurber's turkey."

Climax, Anti.— The inferior tribunals, whose magistrates feel most keenly the glory of a little brief authority, frequently offer excellent examples of anti-climax. A famous story is that of the London "beak" who made this tremendous appeal to a witness about to take the oath:

"Remember that the eyes of God and of Her Majesty's police court are upon you."

Equally famous is the exordium of another justice's charge to a jury in a case of larceny:

"For forty centuries the thunders of Sinai have echoed through the world, 'Thou shalt not steal.' This is also a principle of the common law and a rule of equity."

Cockburn, Lord.—It is bad enough when *common folks* indulge in a temper fit, but what shall be said when great men make a like exhibition of themselves? Sir Alexander Cockburn and Sir Edwin Landseer were dining at a table where the conversation was varied and cheerful. Sir Alexander was lord chief justice of England and Sir Edwin was perhaps the most eminent English artist of his time. Some one spoke of Shakespeare, and Landseer remarked that the poet had made a mistake in causing his hunted stag to shed "big round tears." "Now," said he, "I have made stags my special study, and I know that it is quite impossible for them to shed tears." Most of the guests were inclined to accept this as an innocent if not very valuable commentary, but Cockburn turned upon the speaker and asked him in a loud voice:

"And you don't think you are committing a most unwarrantable impertinence in criticising Shakespeare?"

The explosion of a bomb could not have created greater dismay. Landseer, the most sensitive of mortals, turned pale, and Cockburn continued to glare at him. The host, as soon as possible, broke up the party and bundled his quarrelsome guests off into the garden. Now came another difficulty. The house was six miles from town, and, as it was Sunday evening, no cabs were to be had. Landseer must return in Cockburn's carriage. To that end the host made every possible effort to bring about a reconciliation. He entreated the artist to forget and forgive:

"Remember, Sir Edwin," said he, "that long after he

has joined all the other chief justices and is forgotten, your name will remain as that of the greatest English painter of this or any other age."

"That's true," said Sir Edwin, "and I am willing to make it up and ride home with him. But he'd better know that if he begins again I'm the man to get down, take off my coat and fight him in the lanes."

Then the lord chief justice was told that Landseer was willing to shake hands and go home with him.

"I won't take him!" said he curtly, and drove away alone.

In his "Circuit Journeys," Cockburn tells many amusing stories regarding the cases which came before him. Speaking of the trial of several women, he mentions that he was greatly diverted by overhearing the opinion entertained by one of the accused of himself and his learned colleague. The virago remarked to one of her associates in the dock:

"Two auld gray-headed blackguards. They gie us plenty o' their law, but deevilish little yoostice."

Cockburn had been detained one day in court much beyond the usual hour, by the dull prosing of an advocate. A friend meeting the judge afterwards, said that the advocate was certainly inclined to be tedious.

"Tedious!" exclaimed Cockburn, "he not only exhausts time, but encroaches on eternity."

Cockburn, after a long stroll, sat down on a hillside beside a shepherd, and observed that the sheep selected the coldest situation for lying down.

"Mac," said he, "I think if I were a sheep I should certainly have preferred the other side of that hill."

The shepherd answered:

"Ay, my lord; but if ye had been a sheep ye would have had mair sense."

Cockburn, when at the bar, defended a Scotchman for murder. A long and eloquent fight was in vain. Sentence of death was passed. Then began the condemned Scotchman to abuse his counsel:

"I ha' nae got justice the day," he declared.

"Possibly not, but you'll get it in a fortnight," was the crushing reply.

Coke, Sir Edward.—The gladsome light of jurisprudence. *First Institute.*

Magna Charta is such a fellow, that he will have no sovereign.

When the judges were asked if they ought not to stay proceedings until his Majesty had consulted them in a case where he believed his prerogative or interests concerned, and required them to attend him for their advice, all the judges except Coke answered in the affirmative. He proudly replied:

"When the case happens, I shall do that which shall be fit for a judge to do."

Coleman, Richard H.—Judge Coleman, of Virginia, was a judicial officer of no ordinary merit, but his ability was rather of the solid than brilliant order. He was not, so to speak, "cut out" for an orator. His delivery was not fluent, but rather hesitating, and not so happy as that of others with more turn for elocution. A hardened criminal was tried before him, and by overwhelming testimony convicted of murder in the first degree. The judge, departing from his custom of pronouncing sentence in the briefest manner, indulged in something like a moral lecture, concluding with great solemnity in the usual manner, "That you be then and there hanged by the neck until you are dead, and may

Almighty God, in his infinite goodness, have mercy on your soul."

The criminal, on his way to the jail, turned to the sheriff and said, with the most contemptuous expression of countenance and manner:

"Did you ever hear such stuff and nonsense as that man talked to me, in all your born days?"

"Why," replied the astonished and shocked official, "I think he gave you most excellent advice, and you ought to employ the balance of your days in thinking of and trying to follow it."

"Pshaw!" exclaimed the convict, "Everybody knows Dick Coleman ain't no public speaker."

Coleridge, Lord.— It is related that Coleridge sprang into eminence as a lawyer by adroitly seizing a simple incident while pleading the cause of a man on trial for murder. In the course of his long argument, a candle in the jury box flickered and went out, leaving the court-room in darkness. He stopped speaking, and the silence in court for a moment was oppressive. The scene, with its dark shadows, its grim faces, the scarlet robes of the judge, and the haggard face of the murderer, was worthy of Rembrandt. The usher replaced the light, and Coleridge resumed his address:

"Gentlemen of the jury, you have a solemn duty to discharge. The life of the prisoner at the bar is in your hands. You can take it — by a word. You can extinguish that life as the candle by your side was extinguished a moment ago. But it is not in your power, it is not in the power of any of us — of any one in the court or out of it,— to restore that life, when once taken, as that light has been restored."

The tone in which the words were spoken, the cadence

of the voice and the action of the orator, with the inspiration of the scene and the hour, produced a thrilling effect. The jury acquitted the prisoner, and Coleridge's fortune was made.

It was one of the delights of Coleridge to profess ignorance of things supposed to be of common knowledge. In a newspaper libel action his lordship, in his most silvery tones, asked:

"What is Truth?"

"It is a newspaper, my lud," replied counsel.

"Oh!" said his lordship, preserving his simplicity and splendid gravity—"isn't that an entirely new definition?"

Coleridge, in a hearing before the court, wished to be informed of the meaning of the phrase "coming to grief;" Justice Lawrence had never heard the expression, "Going, Tommy Dodd;" and Lord Halsbury asked an explanation of "Old Ambiguity." This ignorance of what, outside the judicial world, was common knowledge, suggested the following drama to the *Referee:*

SCENE: *A Court of Justice.*

Witness: "I noticed that she had a black eye."

Coleridge: "One moment. I don't quite follow you. What was the color of her other eye?"

Witness: "I mean her husband had blackened her eye."

Coleridge: "What an extraordinary thing to do! Did he use paint or burnt cork or soot, or what?"

Witness: "No; I mean he fetched her one and that made her eye black."

Coleridge: "Fetched her one! I presume he fetched her a black glass eye from a dealer in such articles?"

Counsel: "No, your lordship. The witness means that the woman was struck in the eye, and that the result was discoloration of the adjacent flesh."

Coleridge: "O! *Now* I understand."

Witness: "She went out, and said, 'I'll be back in half a jiffy.'"

Coleridge: "I don't know what kind of a conveyance that is, but why didn't she come back in a whole one?"

Witness: "It isn't a conveyance, my Lord."

Coleridge: "O, is it a — er — garment?"

Counsel: "No, your lordship. It is a common expression for a short space of time."

Coleridge: "Dear me! How very confusing! Go on."

Witness: "She gave me a bob."

Coleridge: "Dropped you a curtsey, you mean, eh?"

Witness: "No, a shilling."

Coleridge: "I never heard a shilling called a 'bob' before. Go on."

Witness: "And I took my hook."

Coleridge: "You had brought a hook with you, then?"

Counsel: "He means he took his departure. Go on."

Witness: "When I saw her again, she'd been on the booze."

Coleridge: "Is that a river?"

Witness: "I mean she'd been drinking."

Coleridge: "Then why didn't you say so?"

Witness: "I saw a policeman, and I went up to him and said, 'I say, bobby —'"

Coleridge: "You knew the policeman intimately, then?"

Witness: "Never saw him before in my life."

Coleridge: "And yet you knew his Christian name and addressed him by it in its most familiar form?"

Counsel: "A policeman is frequently called a bobby, my lord."

Coleridge: "Dear me! I was not aware of it; I never heard the expression before."

Counsel: "Great Scot!"

Coleridge: (Looking inquiringly round the court) "Where? I have heard so much of him, I should like to see him."

Counsel: (To witness) "And you gave her in charge?"

Witness: "Yes; but the policeman said, 'What's your game?'"

Coleridge: "What had you in your hand, then—a brace of pheasants, or a hare, or what?"

Counsel: "O, skittles!"

Coleridge: "O, that was the game! But how could the witness be playing skittles in the street?"

Witness: (To counsel) "O Lor'! ain't he a treat!"

Counsel: "Yes. You'd better stand down till I get a sworn interpreter."

Coleridge's delight in professing ignorance of things supposed to be of common knowledge recalls some parallel instances in the judicial career of other judges:

In a libel action by a lady journalist against Mr. Gilbert a few years ago, Sir E. Clarke read from a book of the plaintiff a description of Chopin's "umber-shaded hair." Lord Russell of Killowen's face assumed a look of blank astonishment. "What shade?" said he.

"Umber-shaded," replied Sir Edward.

"Yes, but what shade is that," pressed the Chief Justice.

The British jury could stand it no longer. "Brown, my lord — brown," they all cried with one voice; and the case proceeded.

Justice Ball, an Irish judge, was noted for his amusing manifestations of ignorance, but whether they were real or pretended has never been clearly established. He tried a case in which a man was indicted for robbery at the house of a poor widow. The first witness was the

young daughter of the widow, who identified the prisoner as the man who had entered the house and smashed her mother's chest.

"Do you say that the prisoner at the bar broke your mother's chest?" said the judge in astonishment.

"He did, my lord," answered the girl; "he jumped on it till he smashed it entirely."

The judge turned to the crown counsel and said, "How is this? Why is not the prisoner indicted for murder? If he smashed this poor woman's chest in the way the witness has described, he must surely have killed her."

"But, my lord," said the counsel, "it was a wooden chest."

Some men were indicted at the Cork Assizes for riot and assault before the same judge. The prisoners had beaten two laborers who were drawing turf from a bog belonging to an obnoxious landlord. One of the witnesses said, "As we came near to the bog we saw the prisoners fencing along the road."

"Eh! what do you say the prisoners were doing?" asked Justice Ball.

"Fencing, my lord."

"With what?"

"Spades and shovels, my lord."

The judge, looking amazed, said to the crown counsel, "Can this be true? Am I to understand that peasants in this part of the country fence along the roads, using spades and shovels for foils?"

"I can explain it, my lord," said the counsel. "The prisoners were making a ditch, which we call a fence in this part of the country."

Confession.—The following incident occurred at a session of the Circuit Court of Pike county, Mississippi:

Jeff Davis, a "gentleman of color," was on trial under

an indictment for stealing a pistol and one dollar from Samuel Bates, also colored.

A jury was accepted, the indictment read, and the district attorney called the prosecuting witness, Bates, who, having been sworn, was asked to state the facts in the case. The witness began:

"Las' Augus' I come home an' foun' my pistol an' a dollar gone outen my trunk where I lef' 'em dat mornin' I seed Jeff dar, an' axed him who stole my pistol an' my dollar. He said"—

Here the prisoner's counsel objected, and demanded that the court should make a preliminary inquiry whether the confession was extorted by threats or induced by promises of benefits. This the district attorney resisted, and the matter was discussed learnedly and earnestly for three-quarters of an hour. Judge Chrisman decided that the inquiry was proper, and accordingly it was entered upon, the jury retiring.

District Attorney to witness: "What threats, if any, did you make to Jeff?"

Answer. "None."

District Attorney: "Did you make him any promises?"

Answer: "Yes."

Here the prisoner's counsel insisted that the confession could not be received in evidence, and this question was discussed learnedly, earnestly and elaborately for an hour; at the end of which time the judge decided that he could not determine whether or not the confession was admissible unless he knew what the promises were. Examination resumed:

District Attorney to witness: "What did you promise him?"

Answer: "I promised him ef he would give me de pistol I would let him have de dollar — dat was all."

On this state of facts the prisoner's counsel insisted that the confession could not be admitted, and the district attorney urged the contrary. After an animated discussion the judge ruled the confession could be received in evidence.

The jury were brought in and placed in the box. Examination resumed. The crowd had become interested and were listening with almost painful attention.

District Attorney: "Well, what did Jeff say?"

Answer: "Said he didn't know anything about it."

Contempt of Court.— In *Thurtell v. Beaumont*, Sergeant Taddy, in examining a witness, asked him about something that happened "after the plaintiff had disappeared from that neighborhood." Thereupon the presiding judge, Park, observed:

"That is an improper question, and ought not to have been put."

Sergeant Taddy: That is an imputation to which I will not submit. I am incapable of putting an improper question to any witness.

Mr. Justice Park: What imputation, sir? I desire you will not charge me with casting imputations. I say the question was not properly put, for the expression "to disappear" means "to leave clandestinely."

Sergeant Taddy: I say it means no such thing.

Mr. Justice Park: I hope I have some understanding left, and so far as that goes, the word certainly bore that interpretation, and was, therefore, improper.

Sergeant Taddy: I never will submit to a rebuke of this kind.

Mr. Justice Park: That is a very improper manner, sir, for a counsel to address the Bench in.

Sergeant Taddy: And that is a very improper manner for a judge to address counsel in.

Mr. Justice Park: I protest, sir, you will compel me to do what is very disagreeable to me. (Rising with warmth.)

Sergeant Taddy: Do what you like, my lord! (With equal warmth.)

Mr. Justice Park. (Resuming his seat.) Well, I hope I shall manifest the indulgence of a Christian judge.

Sergeant Taddy: You may exercise your indulgence, or your power, in any way your lordship's discretion may suggest; it is a matter of perfect indifference to me.

Mr. Justice Park: I have the functions of a judge to discharge, and in doing so I must not be reproved in this sort of way.

Sergeant Taddy: And I have a duty to discharge as counsel, which I shall discharge as I think proper, without submitting to a rebuke from any quarter.

(Here Mr. Sergeant Lens rose to interfere.)

Sergeant Taddy: No, brother Lens! I must protest against the interference.

Sergeant Lens: My brother Taddy, my lord, has been betrayed into some warmth.

Sergeant Taddy: (Pulling back Sergeant Lens into his place.) I protest against any interference on my account; I am quite prepared to answer for my own conduct.

Mr. Justice Park: My brother Lens, sir, has a right to be heard.

Sergeant Taddy: Not on my account. I am fully capable of answering for myself.

Mr. Justice Park: Has he not a right to possess the court on any subject he pleases?

Sergeant Taddy: Not while I am in possession of it, and am examining a witness.

Here the dispute ended, and his lordship threw himself back in his chair and was silent.

Judge: "Will you tell us how this quarrel originated?"

Witness: "The prisoner made use of the following expression, my lord: 'You are an idiot!'"

Judge: (Observing great hilarity among the audience, to witness.) "Address your observations — to the jury."

In arguing a point before a judge of the Superior Court, Col. Folk, of the Mountain Circuit, in North Carolina, laid down a very doubtful proposition of law. The judge, looking at him for a moment, said:

"Col. Folk, do you think that is law?"

"Candor compels me to say that I do not, but I did not know how it would strike your honor."

The judge gravely said:

"That may not be contempt of court, but it is a close shave."

Thomas F. Marshall, of Kentucky, a famous advocate in his time, was defending a prisoner in a murder case, and, becoming excited at the rejection of testimony offered, said sharply to the court:

"Our Savior was convicted upon just such rulings."

"Mr. Clerk," said the judge, "enter a fine of ten dollars against Mr. Marshall."

"Well, this is the first time I ever heard of anybody being fined for abusing Pontius Pilate," was the quick response of Marshall.

The judge, very indignant, ordered another fine of ten dollars.

Marshall, with that peculiar, mirth-provoking smile that no one could imitate, arose, and with as much gravity as the circumstances permitted, addressed the court as follows:

"As a good citizen, I feel bound to obey the order of this court; but as I don't happen to have twenty dollars

about me, I shall be compelled to borrow it from some friend; and seeing no one present whose confidence and friendship I have so long enjoyed as your honor's, I make no hesitation in asking the small favor of a loan for a few days, to square the fines you have entered against me."

This was a stumper. The judge, looking at Marshall and then at the clerk, said:

"Mr. Clerk, remit Mr. Marshall's fines: the State is better able to lose twenty dollars than I am."

In a trial before a justice of the peace, having exhausted his fund of argument and eloquence to no effect, Marshall, disgusted at the decision, said:

"Will your honor fine me ten dollars for contempt of court?"

"For what?" asked the astonished magistrate. "You have committed no contempt of court."

"I assure you I have an infernal contempt for it."

When Gen. Barnes first commenced practicing law in San Francisco — he was plain Mr. Barnes then — he was engaged in defending a suit involving a large amount of property. He had an uphill contest; for the law, the evidence and the judge were against him. He was making an aggressive fight, however, and for several days was compelled to submit to the taunts of the opposing counsel, the lying of witnesses and the rebukes of the judge. He grew tired of it, and so did his client. On the last day of the trial he decided to brook such treatment no longer, and fortified himself with a pocketful of his client's gold. The attorney for the plaintiff asked an interested witness a palpably unfair question, and Barnes objected. As he expected the opposing counsel turned a torrent of abuse upon him and the court administered a stinging re-

proof. The General rose, and with a blaze of eloquence denounced both judge and attorney as scoundrels and the witnesses as perjurers. The judge was taken so completely by surprise that the General finished before he could collect his scattered faculties.

"Mr. Barnes, I adjudge you guilty of contempt of court," he roared, when he finally found his voice, "and you will pay a fine of $250."

"That is about the price I thought this court would place upon its dignity and integrity, so I came prepared," coolly remarked the General as he counted out the gold.

Years ago, in the city of Buffalo, a member of the bar, arguing a case at the General Term of the Supreme Court at which three of the judges were sitting, was greatly irritated by the frequent expression of dissent by the court to his propositions of law. Pausing abruptly in his argument, he exclaimed, with marked emphasis:

"I will, perhaps, be excusable in remarking that this court strongly reminds me of a Demerara team."

"What kind of a team is that?" asked one of the judges.

"It is composed of two mules and a jackass."

"Fifty dollars fine for contempt of court," said the justice. And the fine was paid.

A pert young Scotch advocate whose case had gone against him had the temerity to exclaim that "he was much astonished at such a decision;" whereupon the court was about to commit him to jail, when John Scott, afterward Lord Eldon, the counsel on the other side, interposed in his favor:

"My lords, my learned friend is young; if he had known your lordships as I have, he would not have expressed astonishment at any decision of your lordships"—an apology which seemed to satisfy the court.

Not long after his first brief, a circumstance occurred which elicited the first scintillation of Curran's genius, and rendered him a terror alike to the bench and the bar.

Lord Robertson, one of the presiding judges, was very unpopular. He had undertaken to edit an edition of Blackstone, but, being afraid of the critics, he simply gave it the title of "Blackstone's Commentaries, by a Member of the Irish Bar." Soon after the work appeared Curran was pleading a case before his lordship, when the judge interrupted him, and said:

"Gentlemen of the jury, the learned counsel has mistaken the law of this case. The law is so and so."

To which Curran tartly replied:

"If his lordship says so, the etiquette of the court demands that I submit, though neither the statute nor common law of the country should sanction his lordship's opinion; but it is my duty and privilege to inform you, gentlemen of the jury, that I have never seen the law so interpreted in any book of my library."

Robertson sneeringly replied: "Perhaps your library is rather small, Mr. Curran."

"I admit my library is small; but I have always found it more profitable to read good books than to publish bad ones — books which their very authors and editors are ashamed to own."

"Sir," said the judge, "you are forgetting the dignity of the judicial character."

To this Curran promptly replied:

"Speaking of *dignity*, your lordship reminds me of a book I have read — I refer to 'Tristram Shandy' — in which, if your lordship has read it, you will remember that the Irish Buffer Roche, on engaging in a squabble, lent his coat to a by-stander, and after the fight was ended he discovered that he had got a good beating and lost his

coat into the bargain,— your lordship can apply the illustration."

"Sir," said the judge, very petulantly, "If you say another word I'll commit you."

"If you do, my lord, both you and I shall have the pleasure of reflecting that I am not the worst *thing* your lordship has *committed*."

Thad. Stevens, once having lost a cause in a county court through the stupid ruling of the court, left the room, scattering imprecations right and left. The judge straightened himself to his full height, assumed an air of offended majesty, and asked Thad. if he meant to "express his contempt for this court."

"Express my contempt for this court! No, sir, I am trying to conceal it."

The common meaning of "over the left" appears in the records of the Hartford County Courts, Colony of Connecticut:

"At a County Court Held at Hartford.

"September 4, 1705.

"Whereas James Steel did commence an action against Bevell Waters (both of Hartford) in this Court, upon hearing and tryall whereof the Court gave judgment against the said Waters, (as in justice they think they ought,) upon the declaring the said judgment, the said Waters did review to the Court in March next, that, being granted and entered, the said Waters, as he departed from the table, he said, '*God bless you over the left shoulder.*'

"The Court order a record to be made thereof forthwith. A true copie: Test.

"Caleb Stanley, Clerk."

At the next court, Waters was tried for contempt for saying the words recited, "so cursing the Court," and on

verdict fined five pounds. He asked a review of the Court following, which was granted; and pending trial, the Court asked counsel of the Rev. Messrs. Woodbridge and Buckingham, the ministers of the Hartford churches, as to the "common acceptation" of the offensive phrase. Their reply constitutes a part of the *Record*, and is as follows:—

"We are of opinion that those words, said on the other side to be spoken by Bevell Waters, include (1) prophaneness, by using the name of God, that is holy, with such ill words whereto it was joyned; (2) that they carry great contempt in them, arising to the degree of an imprecation or curse, the words of a curse being the most contemptible that can ordinarily be used.

"T. WOODBRIDGE.
"T. BUCKINGHAM.

"March 7th, 1705–6."

The former judgment was affirmed on review.

The late Judge Clairborne, of Northern Louisiana, is said to have swayed his sceptre with a potency rivaling that of a Russian czar. On one occasion a prisoner was fined $50 and committed to jail for contempt of court in refusing to bow to him while passing along a public highway. An application having been made to remit the fine and release the prisoner, on the ground that there was no contempt of court, as the judge, when on a public highway, was not a court, and therefore not an object of contempt, the legal potentate straightened himself up in his seat, and, with the air of a lord chancellor, replied:

"Sir, I'll have you know that I am judge of this parish; judge all the time; judge from the rising of the sun to the going down thereof; *and always an object of contempt.*"

Attorney McLean, of Greensboro, North Carolina, while arguing a case before Judge Tourgee, lost his temper at

a ruling of the court, and used some petulant expression. Instantly the judge said:

"Mr. McLean, the court does not understand you. Do you mean to express contempt for the court?"

Recovering his temper, McLean said, with the greatest good humor:

"I hope your honor will not press that question."

"I hear that Judge Blucketts is studying mind reading," said the lean lawyer.

"If he gets proficient," said the fat lawyer, "he'll arrest the whole town for contempt of court."

Corwin, Thomas.—"Corwin's intellectual faculty," says Mr. Spofford, "was keen, and his sense of humor, which made him a master of the art of ridicule, was delightfully spontaneous. He had a mobility of feature that was marvelous. No other man in public life could so surely throw an audience into roars of laughter by witty appeal or anecdote set off by an irresistibly comic facial expression. But great as was his power of humor, it was always subordinate, in his speeches, to the aim of convincing his audiences. I have heard him, when defending a poor newspaper reporter in Cincinnati charged before a United States court with aiding in the escape of a fugitive slave, after convulsing the court with merriment at his picture of the 'majesty of the United States in hot pursuit of an unhappy negro making toward Canada as fast as his feet would carry him, turn the fun into solemn silence by apt allusions drawn from the Golden Rule and the Sermon on the Mount."

Although earnest as a lawyer, speaker and statesman, keeping his audience in a roar, and often disturbing the gravity of the United States Senate, Corwin regarded his life a failure, because of his want of success in more seri-

ous veins. Referring to a speech he had made the evening before, he said to a friend:

"It was very good, but in bad style. Never make the people laugh. It is easy and captivating, but death in the long run to the speaker."

"Why, Mr. Corwin, you are the last man living I expected such an opinion from."

"Certainly; because you have not lived as long as I have. Do you know, my young friend, that the world has a contempt for the man who entertains it? One must be solemn — solemn as an ass — never say anything that is not uttered with the greatest gravity, to win respect. The world looks up to the teacher and down upon the clown. Yet, in nine cases out of ten, the clown is the better fellow of the two."

"We who laugh may be well content if we are as successful as you have been."

"You think so, and yet, were you to consult an old fellow called Thomas Corwin, he would tell you that he considered himself the worst used man in existence; that he has been slighted, abused, and neglected — and all for a set of fellows who look wise and say nothing."

Someone asked Corwin if he had heard a certain story of Lewis D. Campbell's.

"Was it about himself?" inquired Corwin.

"No, I believe not."

"Well, then I never heard it."

Coudert, Frederick R.—"Success at the Bar," by Frederick R. Coudert, the eminent New York jurist, is a brilliant in a beautiful setting:

"Fortunately for the numberless candidates to forensic honors, no special gift is needed for the attainment of reasonable success at the bar. It is true that a certain

minimum of intelligence is required even for this, and it would, no doubt, be held actionable to-day, as it was some centuries ago, to charge a lawyer with being a fool, especially with an expletive prefix that adds intensity to the slur. The reason given being as true to-day as it was then, that however unnecessary it might be for a parson (a point which was not directly ruled upon), it certainly was necessary for an attorney to be endowed with some intellectual capital.

"Herein the lawyer is more fortunate than the poet. Horace, no mean judge himself, insists that neither men nor gods nor book-sellers will tolerate mediocrity in poets, but he generously distinguishes in the lawyer's favor.

> In certain things a medium is endur'd
> Who tries Messala's eloquence in vain,
> Nor can a knotty point of law explain
> Like learn'd Cascellius, yet may justly claim,
> For pleading or advice, some right to fame;
> But God and man, and letter'd poet denies
> That poets ever are of middling size.

"For Messala and Cascellius read Carter or Choate or Parsons, and the lines are as true as when they were written.

"Of course, the youthful and ambitious aspirant feels quite confident that he will be a Cascellius or a Messala, which is all the better; he will not strike high if he aims low. But he will admit that the moral applies to the other young men who are to be his contemporaries if not his rivals.

"It is a common and vulgar error to suppose that there are special rules of action for the attainment of success at the bar — a special drill, as it were, that fits the student for his chosen calling. If there be any such, they have escaped my observation. Whatever the dignity of the profession, it does not stand in this respect upon a

different plane from other pursuits. The rules of morals, of arithmetic, of common sense, of expediency, are the same for the lawyer as for the less fortunate and distinguished members of the human family. He cannot add to or detract from the ten commandments nor from the revised statutes because of his exalted calling. Diligence, sobriety, self-denial, character, must enter into his stock in trade, or he will be a bankrupt, provided he has assets to justify the designation. He must be patient and long-suffering; he must learn to see others who are, he is quite sure, his inferiors, rise rapidly to honor and preferment, while he waits, chafing in obscure neglect. All of us cannot have a bank president in the ascending line of our genealogical tree; kindly uncles, like those in the English plays, are not often on hand to pat the nephew on the back, to call him a sad dog and give him a huge leather pocket-book filled with Bank of England notes. In other words, only the very few have the paths cleared for them by kindly gentlemen who have a decent regard for the ties of blood. Most of us must do the clearing away for ourselves, and, if we are what we ought to be, may rejoice all the more in the triumph that is our own; though the venerable relative who sends the early retainer and makes the payment of rent merely a perfunctory and easy operation should not be mentioned lightly, even by those who know him only through report.

"If there is one quality which more than any other commands respect and deserves success, it is the faculty of self-denial, a real and genuine capacity to stifle inclination in small as well as great things, especially in small ones. No other ingredient enters so largely into success as this capacity to turn one's back deliberately on the pleasant things of life and to take up, bravely and cheerfully, its disagreeable duties. The upward steps

are rough-hewn and hard to the feet. The siren's lay is as sweet to-day as when wise Ulysses stuffed the ears of his companions so that her music would not draw them from honor and duty and turn them into swine. Nature abhors and frowns upon effort; she smooths the path of the sluggard, the self-indulgent, the vain and the foolish with her sweet melodies. It is easier to sleep than to watch, to glide with the easy current than to breast the waves and fight the tempest. Success, like the kingdom of heaven, can only be taken by storm. Easy-going disciples of Epicurus think that the game is not worth the candle, and that a result that costs so much is too expensive. They may be right, but they are not of those who desire to succeed in an arduous profession and who believe that the honor and greatness of the reward are worth a hundred fold more than they cost.

"Perhaps this is the place to add that in the law as in other callings, honesty is the best policy. I have heard this frequently asserted, but I am not quite convinced that it is true. I have known sorry knaves in every profession or trade to achieve what they and many others might call success, and it was success if by that word is meant the diversion of considerable sums from the pockets of others into their own, without any violation of the penal code. But perhaps success means something more, and implies, of necessity, the coerced and deserved respect of good men. Be this as it may, that honesty will always be frail and open to suspicion which is fed by the belief that it pays better than its opposite. If the younger men will look at the seniors who have achieved real success, they will not need to be told that these men were loyal and true, whether it was policy or not.

"To sum up, then, it is honest work that achieves success; for work means self-denial, and self-denial means

virility. It is the man who succeeds in the end. If he is a real man, he will succeed without set rules; if he be not, then, being only the image of a man, he may deceive himself and his friends with the belief that fortune has been a stepmother and frowned on him from his birth. Why disturb him and them if they are thus made happy?"

Counsel, The Successful.—The career of a leader at the bar shines in the polished rhyme of *The Successful Counsel*, published in the Journal of Jurisprudence and Scottish Law Magazine:

How rapidly he makes his way,
This most successful legal limb!
Through half the night and all the day
The happy agents follow him.
Then follow from his affluent lips
The wisdom of the seraphim,
And every buzzy body sips
The honey that's distilled by him.
He's witty, too. You jest: thereat
You see their Lordships looking prim.
Your favorite joke that fell so flat
Is exquisite when said by him.
We gaze on wheresoe'er he goes,
His figure, be it squat or slim;
And even to his boots and "close"
The wondering juniors copy him.
The briefless, pacing day by day
The weary boards not "in the swim,"
With grief (but not with grammar) say,
"We wish to goodness we were him!"
He snubs, he sneers, he jibes, he frowns,
Then smiles illume his visage grim;
We bear his temper's ups and downs,
And e'en the judges bow to him.
"'Tis only pretty Fanny's way,"
And "geniuses must have their whim;"
Whate'er he says or doesn't say,
The happy agents follow him.

Retainers of both kinds he hath:
  His Pistol, Bardolph, Peto, Nym,
Enjoy his smiles, endure his wrath,
  And serve as useful foils to him.
Law only charms this legal swell:
  A primrose by the river's brim
(See Wordsworth, case of Peter Bell)
  A primrose only is to him.
You talk about historic times —
  The strife of Strafford, Hampden, Pym;
Of art,— the last new poet's rhymes: —
  A vacant stare's vouchsafed by him.
Of politics he knows but this,
  It does not pay to turn and trim;
Nor cares for them, yet must not miss
  What prize may be in store for him.
Time passes; he becomes a judge:
  Sudden his luster groweth dim.
His wisdom now you call it fudge,
  And nobody cares a rap for him.
Ah! every dog must have his day,
  He's no more now than Jack or Jim;
And all the happier agents say,
  "Sir Newman quite eclipses him."
He sees his sun of glory set
  'Neath the horizon's purple rim;
And thinks of days, with grim regret,
  When crowds of clients followed him.

Court, United States Supreme.— One of the most amusing incidents that ever brightened the solemnity of the Supreme Court chamber occurred when Justice Miller undertook to arrest the flow of eloquence of an attorney who was arguing his first case, an appeal from the Circuit Court of a Western state. The young lawyer was declaiming at the rate of one hundred and fifty words a minute on some of the simplest principles of law, which every attorney should fully understand before he gets his diploma, and, becoming weary after a while,

Miller interrupted the speaker in a sarcastic tone, inquiring:

"I hope the learned counsel will give the court the credit of knowing the rudiments of law."

"I beg the pardon of your honor," replied the attorney in the blandest manner, "but I made that mistake in the lower court."

A similar incident occurred more recently, when a young attorney from the South became entangled in complications of his own creating and was floundering along in a hopeless attempt to extricate himself. Judge Brewer, who is very kind-hearted and always helps a fellow-mortal out of a difficulty when he is able to do so, undertook to play the part of a good Samaritan and brought upon himself a shaft that his associates on the bench will never allow him to forget. Thinking that he might relieve the embarrassment of the counsel and give him a chance to make a fresh start, Brewer interrupted him and said:

"I don't quite follow the learned counsel in his argument. Perhaps if he will go back and repeat a little of what he has already said, I may understand him better. I haven't been able to follow the thread of his argument."

"I noticed you couldn't," retorted the unabashed attorney. "It is a very complicated point of law, but if you will give me your close attention I will try to make it so clear that you can understand it."

Judge Brewer's remarks on "Misfits" in the legal profession are worth noting: "I admit that lawyers do not support themselves by planting potatoes or plowing corn, though there is many an attorney who would bless himself and bless the bar and bless all of us if he struck his name off the court rolls and entered it on the books of an agricultural society."

Justice Harlan's manner is courteous and refined; but this does not prevent his administering severe rebuke when occasion demands.

The Justice delivers two lectures weekly at Columbia University. One afternoon a late arrival among the students brought with him an extra edition of an evening paper, which, on taking his seat, he eagerly scanned for Cuban war news. Justice Harlan did not choose to tolerate such inattention, so, after pausing a moment or two in his remarks, he said in cold tones:

"I hope I do not disturb the young gentleman who is reading his paper."

The student instantly put his paper out of sight, and for the remainder of his lecture Justice Harlan had no more attentive listener.

In a golf match between Justice Harlan and Rev. Dr. Sterret, the Doctor discovered that his ball teed up in tempting style for a fine brassie shot, and, with the utmost deliberation, he went through with the preliminary "waggles," and with a supreme effort — missed the ball. For fully a minute he gazed at the tantalizing sphere without uttering a word. At length Harlan remarked solemnly: "Doctor, that was the most profane silence I ever listened to."

Judge Strong, after ten years of service, resigned in 1880 in the zenith of his physical and mental powers. To a friend he thus expressed the reason for his resignation: "I would rather go when everybody would be glad to have me stay than stay until everybody would be glad to have me go."

Justice Hunt was a gentleman of culture and refinement. After Hunt's appointment, some one asked Judge Black, of Pennsylvania, what he thought of the new

justice. The old judge, changing his quid of tobacco from one cheek to the other, smiled significantly and remarked: "He is a very lady-like personage."

The late Justice Davis said to a young lawyer: "You need not be afraid to speak before the Supreme Court judges. If one of them interrupts you in the midst of an argument by some irrelevant question, don't get frightened and spoil your argument by stopping and answering him. Just say, quietly: 'Excuse me, your honor, but I'll reach that by and by;' and if you don't reach it, it won't matter. You need not be afraid that you will be called on to answer it after you have taken your seat."

Chief Justice Fuller, himself a Chicagoan by adoption, is credited with having said exultingly that Chicago, the great Cosmopolis, "has within its limits more Poles than any city in Poland, more Bohemians than any city in Bohemia, more Germans than any city in Germany save Berlin, more Irish than any city in Ireland save Dublin, more Italians than any city in Italy save Naples and Rome." Associate Justice Brewer ventured to add as a suitable climax: "And doubtless more saints and sinners than any place in the universe, save heaven and hades." The Chief Justice promptly admitted the charge as to the saints, but evidently thought that New York might be a successful rival in the matter of sinners.

Cox, Sergeant.— Sergeant Cox, editor of Cox's Criminal Cases, was a remarkable man in many respects. Though enormously rich, he was content for many years to play the part of journeyman judge at the Middlesex Sessions for the somewhat modest remuneration of five guineas for every day that he was called upon to sit, the annual sum yielded by the office being only a little over £500. He was a large holder of newspaper property,

being the owner of *The Field*, *The Queen*, *The Law Times*, *The Exchange and Mart*, and several other periodicals. To merely mention the two first-named publications would be, of course, to convey the idea of very considerable income. He was a dapper-looking little man, with a florid complexion and a perpetual smile. He took a long time to try his cases, and was a painstaking and most humane judge. He was a member of the Western Circuit, and there is a rather good story concerning him, dating from the time when he practiced at the bar:

It had happened one day at Exeter that there was a great stress upon the time of the judges — both the calendar and cause lists being unusually heavy,— and, in consequence, it was resolved to obtain assistance from the bar. Cox wore a silk gown, and was selected to try the overflow of cases. He took his seat with evident pleasure, and with a certain amount of exaggerated dignity. When a commissioner is appointed temporarily in this way, it is customary for counsel to address him by the title of "my lord," and in other respects to treat him exactly as though he were a permanent judge. It so happened that the first case tried by Cox was one in which a barrister named Carter appeared for the defence; and the latter gentleman "my lorded" the former to his heart's content. Presently a point of law arose, and Carter, addressing the presiding dignitary, said:

"My lord, if your lordship remembers, there is the well-known case, my lord, of —— and ——. If your lordship will permit me, I will read you the marginal note."

Cox observed:

"Mr. Carter, I don't see that this case is on all-fours with the present. In fact, I don't think it has anything to do with it."

"What!" said Carter, dropping "my lord;" "do you

mean, sir, to say that you don't see the force of my argument? The best thing, sir, you can do is to go and consult the judge in the adjoining court."

The Sergeant replied:

"I shall do nothing of the sort. Pray proceed with your case."

Cross-examination.—In his *Golden Rules*, David Paul Brown suggests the following for cross-examination of witnesses:

"Be mild with the mild, shrewd with the crafty, confiding with the honest, merciful to the young, the frail or the fearful, rough to the ruffian, and a thunderbolt to the liar. But in all this, never be unmindful of your own dignity. Bring to bear all the powers of your mind, not that you may shine, but that virtue may triumph and your cause prosper."

"If the witness determine to be witty or refractory with you, you had better settle that account with him at first or its items will increase with the examination. Let him have an opportunity of satisfying himself either he has mistaken your power or his own; but in any event be careful that you do not lose your temper; anger is always either the precursor or evidence of assured defeat in any intellectual conflict."

Julian Ralph, in his recollections of William Fullerton, says: He was an undoubted master of the fine art of cross-examination. We who know what brains have done would never rank a mere mouth and a big pair of lungs above an intellect. Think how Fullerton used to handle a witness! Remember how each witness on the other side used to take the chair frowning and sullen and seeming to say: "I have been told about you. You can't get

me to let you play with me. I'll tell you nothing that you'll like." But then recollect how Fullerton took that witness in hand and told him how unjustly he (the lawyer) had been credited with a desire to discomfort people, and how he was certain he and the witness were going to become great friends. How smoothly, how adroitly, how daintily he led the witness on and on, we reporters wondering what to take down and what to leave out, for no one could say what the climax was to be or how or when it would come.

The lawyer and witness fell to chatting and the witness was lulled out of all sense of danger until, suddenly, like a thunder-clap, the witness had said the thing the lawyer wanted, had supplied a little pin that fastened together a dozen links in a chain which left the witness fettered and bound to the truth which he had never meant to tell. That was a great cross-examiner, and no mistake. He never angered judges and juries or placed himself so that it was a damage to a case to have him open his mouth.

A successful cross-examination is one of the most difficult and important duties which an attorney can perform. It requires a knowledge of human nature — of the springs of human action — a subtle and nice discrimination. "When it is not founded on materials of contradiction, or directed to obtain some information which the witness will be willing to give, it proceeds on the assumption that the party interrogated has sworn an untruth, which he may be induced to vary." But it is often the means by which trustworthy evidence is mischievously weakened or set entirely aside. A fine illustration of this occurred in Kenyon's cross-examination of a witness in the trial of Lord George Gordon. The witness

testified that a certain flag was carried in a procession. Kenyon cross-examined him as follows:

"Can you describe the dress of this man you saw carrying a flag?"

"I cannot charge my memory; it was a dress not worth minding — a very common dress."

"Had he his own hair or a wig?"

"If I recollect right, he had black hair; shortish hair, I think."

"Was there anything remarkable about his hair?"

"No; I do not remember anything remarkable; he was a coarse-looking man; he appeared to me like a brewer's servant in his best clothes."

"How do you know a brewer's servant in his best clothes from any other man?"

"It is out of my power to describe him better than I do. He appeared to me to be such."

"I ask you by what means you distinguish a brewer's servant from any other man's?"

"There is something in a brewer's servant different from other men."

"Well, then, you can tell us how you distinguish a brewer's servant from any other trade?"

"I think a brewer's servant's breeches, clothes and stockings have something very distinguishing."

"Tell me what in his breeches and the cut of his coat and stockings it was by which you distinguished him?"

"I cannot swear to any particular mark."

This witness undoubtedly told the truth, yet it is related that he was hooted from the witness box as if he had sought to impose on the jury. Erskine, who was engaged with Kenyon in the case, in his address to the jury adroitly took advantage of the temporary prejudice:

"You see," said he, "gentlemen of the jury, by what strange means villainy is detected."

Kenyon had been at the bar but a short time when that trial took place; and this cross-examination alone established his reputation as an able advocate.

Sir James Scarlett (Lord Abinger) was a severe cross-examiner. An example of his offensive and overbearing treatment of witnesses is afforded in his cross-examination of Grimaldi, the famous clown, as given in Dickens' Life of Grimaldi:

Scarlett commenced his examination by saying, "Dear me! Pray, sir, are you the great Mr. Grimaldi, formerly of Covent Garden Theatre?"

The witness reddened and replied:

"I used to be a pantomime actor, sir?"

"Pray, don't blush, Mr. Grimaldi, there is not the least occasion for it," said Sir James.

This, of course, made Grimaldi blush more and more, although he replied:

"I'm not blushing, sir."

The spectators tittered, and Sir James, smiling blandly, said:

"I assure you, Mr. Grimaldi, that you *are* blushing violently."

Grimaldi was angry and nervous, but he had his wits about him, and replied:

"I beg your pardon, sir, but you are really quite mistaken. The flush which you observe on my face is a *Scarlett* one, I admit, but I assure you that it is nothing more than a reflection from your own."

The people shouted with laughter, and Sir James bantered the witness no more.

Mr. Alexander, architect, was once under cross-examination by Sergeant Garrow. After asking him his name, the sergeant proceeded:

"You are a builder, I believe?"

"No, sir, I am not a builder; I am an architect."

"Ah, well, architect or builder, builder or architect, they are much the same, I suppose?"

"I beg your pardon, sir, I cannot admit that; I consider them totally different."

"Oh, indeed! perhaps you will state wherein this great difference consists."

"An architect, sir, prepares the plans, conceives the design, draws out the specifications — in short, supplies the mind; the builder is merely the bricklayer or the carpenter; the builder is in fact the machine; the architect the power that puts the machine together, and sets it going."

"Oh, very well, Mr. Architect, that will do; and now, after your very ingenious distinction without a difference, perhaps you can inform the court who was the architect of the Tower of Babel?"

The reply, for promptness and wit, is perhaps not to be rivaled in the whole history of rejoinder:

"There was no architect, sir,— and hence the confusion."

Edward Manson's "Cross-examination — a Socratic Fragment," in the Law Quarterly Review, is nicely drawn.

Socrates: Shall we not be right in saying then that the object of cross-examining witnesses is to elicit the truth?

Philotimus: It would seem so, Socrates.

Soc.: Then the good advocate, aiming at this mark, will ask only such questions as will help to discover the truth?

Phil.: Only such questions, Socrates.

Soc.: How shall we reconcile this with what we arrived at before, that it is the function of the judge to find out the truth, and not the function of the advocate?

Phil.: This is a hard nut to crack, Socrates.

Soc.: Have we not then been confusing two different kinds of excellence, that of the judge and that of the advocate, just as if we were to confuse the excellence of the terrier and the excellence of the rat?

Phil.: We seem to have been guilty of some such mistake, Socrates.

Soc.: Let us consider then what is the special excellence of the advocate. Will it not be to recommend himself to his client so that he may obtain more briefs, and become popular among litigious people?

Phil.: This seems very probable, Socrates.

Soc.: Then will not the advocate who proposes this end to himself try, if he has a bad case, to make the worse appear the better reason, and to hoodwink the jury, and to browbeat and bully the witnesses and do other things of this kind, if he sees that they please his employer and procure him special retainers?

Phil.: This is likely enough, Socrates.

Soc.: And if he sees a witness timid and nervous he will speak to him in a loud voice and try to frighten him, and will treat him roughly as if he was speaking lies?

Phil.: We shall not be far wrong, Socrates, in expecting this.

Soc.: And if he knows anything to the disadvantage of the witness he will rake it up, will he not, however old it may be, and whether it has anything to do with the matter in question or not; as if a witness is called to prove a will, he will ask him whether he did not once steal apples when he was a boy, and if he knows nothing, he will suggest things which are not true and make innuendoes and insinuations?

Phil.: This seems the best course, Socrates.

Soc.: And if the judge interferes or remonstrates, he

will insult him as far as he dares, or make slighting remarks in an undertone, to make his employer think that he is master in the court and more knowing than the judge?

Phil.: I should advise him to act so, if he would listen to me.

Soc.: And thus he will get the reputation of a verdict-winner, and will be talked about in the newspapers, will he not, and will receive retainers and refreshers continually?

Phil.: No doubt, Socrates.

Soc. While the unskilful advocate, who asks only relevant questions and is courteous to witnesses and respectful to the judge, will be neglected, and his fee-book will suffer?

Phil.: Assuredly, Socrates.

Soc.: We seem to have arrived at this, then, that law is in the nature of a cock-fight, and that the litigant who wishes to succeed must try and get an advocate who is a game bird with the best pluck and the sharpest spurs?

Phil.: It would be madness not to do so, Socrates.

Soc.: And to know the law and the true principles of justice will be a matter of secondary importance?

Phil.: Altogether secondary.

Soc.: So that we may say that the law is a matter of clever rhetoric, and of bullying witnesses and cajoling juries, and other such arts, may we not?

Phil.: Apparently.

Soc.: Then how shall we reconcile this with the saying of one of the greatest of the wise men, that "law ought to be the leading science in every well-ordered commonwealth?"

Phil.: We are in a fix, Socrates.

Soc.: May we not have been wrong in saying that the

special excellence of the advocate is to advertise himself and make himself popular with solicitors?

Phil.: I am inclined to think that we must hark back, Socrates.

At the Donegal Assizes the following cross-examination of a witness by Mr. Doherty occasioned much merriment:

"What business do you follow?"

"I am a schoolmaster."

"Did you turn off your scholars, or did they turn you off?"

"I do not wish to answer irrelevant questions."

"Are you a great favorite with your pupils?"

"Ay, troth am I, a much greater favorite than you are with the public."

"Where were you, sir, this night?"

"This night!" said the witness; "there is a learned man!—this night is not yet come; I suppose you mean that night" (here the witness looked at the judge, and winked his eye as if in triumph).

"I presume the 'schoolmaster was abroad' that night, doing nothing?"

"Define 'nothing,'" said the witness. Doherty did not comply. "Well," said the learned schoolmaster, "I will define it—it is a footless stocking without a leg" (roars of laughter in which his lordship joined).

"You may go down, sir."

"Faith, I believe you're tired enough of me; but it is my profession to enlighten the public, and if you have any more questions to ask, I will answer them."

In a trial before Chief Justice Shaw, at Pittsfield, Mass., a prominent cross-examiner asked a witness:

"Where did you get the money with which you made the purchase spoken of?"

The witness thundered: "None of your business!"

Counsel appealed to the court: "Are counsel to be insulted in this manner?"

"Witness," said the chief justice, compassionately, "do you wish to change your last answer?"

"No, sir, I don't!"

"Well, I wouldn't if I were in your place," said Shaw.

Counsel practicing at the Old Bailey, London, are all eligible to plead in the courts of law at Westminster Hall. They seldom, however, appear in the latter place. When they do, they sometimes come in shoals. They are far less refined in their examinations and cross-examinations of witnesses than the counsel who practice in the courts of law. At a trial in the Court of Common Pleas the laugh was turned against an Old Bailey counsel who was doing his best to be at once severe and witty at the expense of an adverse witness. The latter was one of the skin-and-bone class of persons, and, by a curious coincidence, so was the counsel. You could not look on either without coming to the conclusion that to partake of a substantial meal must be an era in their existence.

"So, sir," says the counsel to the witness, in the regular brow-beating style; "so, sir, you have been in the prosecutor's house?"

Witness: I have.

Counsel: Have you often?

Witness: Sometimes. (A laugh.)

Counsel: That, sir, is not an answer to my question. I ask, have you been in this person's house often?

Witness (with much archness of manner): I don't know what you mean by "often."

Counsel: Have you been twenty times?

Witness: I never kept count how many times. (Laughter.)

Counsel: Come, sir, don't be rude. I ask you, have you been twenty times in this man's house?

Witness: I can't speak positively as to the number of times.

The Bench: *About* the number of times; speaking according to the best of your belief?

Witness (with great readiness and politeness): I should think, my lord, I have been in the prosecutor's house from fifteen to twenty times.

Counsel (with great harshness of manner): So, sir, though you could not answer the question when put by me, you found no difficulty in answering it when put by his lordship.

Witness: His lordship put ——

Counsel (interrupting witness): Stay a little, if you please, sir.

Witness: O certainly; as long as you like; I'm in no particular hurry. (Loud laughter.)

Counsel: Perhaps, sir, you would condescend to tell the court what your object was in going to the prosecutor's house?

Witness: The court has not asked me the question. (Renewed laughter.)

Counsel: Don't be insolent, sir; I have asked you the question.

Witness: Then I can't answer you.

Counsel: You *must* answer me, sir.

Witness: I can't; for I often went without knowing the reason why. (Laughter.)

Counsel: Can you inform us then about what particular hour you were in the habit of visiting his house?

Witness (looking towards the bench): Is it necessary that I should answer that question, my lord?

The Judge: If you can, I do not see why you should not.

Counsel: Come, sir; answer the question.

Witness: I should suppose it generally was between one and two o'clock.

Counsel (his countenance brightening up as if he had made some important discovery): O, I see; that was about the dinner hour, was it not?

Witness: I never inquired what was the dinner hour.

Counsel: Perhaps not; but I dare say your nose would be of some service in enabling you to ascertain it?

Witness: My nose, sir, never asks any questions. (Loud laughter.)

Counsel (his face coloring with confusion): But though your nose does not speak, I dare say it has acquired considerable dexterity, from experience, at discovering when a good dinner is on the table of a friend, and enabling you to regulate your visit accordingly.

Witness: You must be judging of my nose from your own, sir. (Roars of laughter, in which the Bench joined.)

Counsel (laboring to conceal his mortification): You seem disposed to be very witty to-day, sir.

Witness: I think *we* are, sir.

This sarcastic though only implied allusion to the efforts of the counsel to be witty told with admirable effect.

Counsel: You say that your favorite hour for visiting this man's house was between one and two o'clock.

Witness: I never said anything of the kind.

Counsel (pulling himself up): What, sir, do you mean to deny what you have just said? Recollect, sir, you are on your oath.

Witness: I said that was generally about the time; but I never said anything about *favorite hour.*

Counsel: Well, sir, perhaps you will have no objection to tell us whether you were in the habit of partaking of the prosecutor's dinner, when honoring him with your visits at the particular time you mention.

Witness: I do not see what that has to do with the present case.

Counsel: It's not what you see, sir. Pray, sir, answer me the question, whether you were in the habit of partaking of this man's dinner on such occasions?

Witness: Whether I partook of it or not depended on circumstances.

Counsel: On what circumstances, sir?

Witness: Why, on whether I was *asked to* partake of it or not. (Loud laughter.)

Counsel: Yes, I dare say you never declined an invitation when you got one.

Witness (with great emphasis): Never, sir. Never refuse a good dinner when I can get one. (Renewed laughter.)

Counsel: I can well believe that. And I'm sure you would do the dinner of any friend ample justice.

Witness: I always do my best, sir, on such occasions. (Loud laughter.)

Counsel: You look the very picture of a hungry fellow.

Witness: Yes, sir; both of us look like the picture of hungry fellows: we look as if we were kept on starvation allowance.

The walls of the court resounded again with the shouts of laughter which followed this severe retort, the effect of which was greatly heightened by the peculiar archness of manner in which it was made. The learned counsel was completely crest-fallen, and made no further efforts to be witty at the witness's expense.

At a trial in the Court of King's Bench as to an alleged piracy of the "Old English Gentleman," one of the first witnesses put into the box was Cooke.

"Now, sir," said Sir James Scarlett, in his cross-exam-

ination, "you say that the two melodies are identical but different. What am I to understand by that, sir?"

"What I said was, that the notes in the two arrangements are the same, but with a different accent — the one being in common while the other is in triple time; consequently the position of the accented notes is different in the two copies."

"What is a musical accent?" Sir James flippantly inquired.

"My terms for teaching music are a guinea a lesson," said Cooke, much to the merriment of the court.

"I do not want to know your terms for teaching," said the counsel, "I want you to explain to his lordship and the jury what is musical accent." Sir James waxed wroth. "Can you see it," he continued.

"No," was the answer.

"Can you feel it?"

"Well, a musician can."

After an appeal to the judge, the examining counsel again put the question:

"Will you explain to his lordship and the jury — who are supposed to know nothing about music — the meaning of what you call accent?"

"Musical accent," rejoined Cooke, "is emphasis laid on a certain note just in the same manner as you would lay stress on any word when speaking, in order to make yourself better understood. I will give you an illustration, Sir James. If I were to say 'you are a *donkey*,' the accent rests on donkey; but if instead I said '*you* are a donkey,' it rests on you, Sir James, and I have no doubt that the gentlemen of the jury will corroborate me in this."

Lincoln's power as a jury lawyer was remarkable. In the Grayson murder case he appeared for the defense.

Two young men, unfriendly, were in love with a young girl. One of them, Lockwood, was murdered. The evidence against the prisoner was circumstantial, but strong. His conviction seemed a certainty. The witnesses for the commonwealth were allowed to go without cross-examination, except the last one. Then Lincoln began:

"You saw the shooting?"

"Yes."

"Saw the pistol?"

"Yes."

"Stood near by?'

"Twenty feet away."

"In the open field?"

"No, in the beech timber."

"Leaves on the timber?"

"Yes."

"At ten in the evening?"

"Yes."

"You could see the pistol and how it hung?"

"Yes."

"Near the meeting place?"

"Three quarters of a mile away."

"Did Grayson or any one have a candle?"

"No."

"How did you see it then in the night?"

"By moonlight."

Lincoln went down into his side pocket, pulled out an almanac and said to the court:

"If your honor, please, I call your attention to this page and this date, and ask you to note that at that hour, ten o'clock on the tenth of August, there was no moon — the moon rose at one o'clock the next morning?"

The effect of this evidence was dramatic. The prisoner was acquitted. The moonlight perjurer was the murderer.

A story that Lincoln used to tell is a fine illustration of much testimony and little evidence, or, as the old saw puts it, "All cry and little wool." He appeared for a defendant in an assault and battery case. The prosecutor was not much hurt, and, in the course of the cross-examination Lincoln asked him:

"How much ground did you fight over?"

"About six acres."

"Don't you think that that was an almighty small crop of fight for so much ground?"

When Mr. Huddleston was at the bar, he was generally on one side or the other in important horse cases. It was said he not only knew a great deal about the quadruped in question, but even more about the bipeds who had to deal with it. He had a hard nut to crack in a Mr. Frederick Jacobs, who carried on a very lucrative business at Cheltenham as a horse dealer.

Jacobs was, if not fond of law, not afraid of it, and more than once fought a touch-and-go case out, and got a verdict, too, although the leader of the circuit — Huddleston himself — was against him. The latter, therefore, began to look upon Jacobs as a foeman worthy of his steel, and having once got him as a plaintiff into the witness-box for cross-examination deliberately prepared to administer a chastisement. He began by saying in a sharp, harsh tone:

"Now, Jacobs."

Jacobs calmly retorted:

"Well, Huddleston?"

Hereupon an impressive pose was made by the astonished and indignant counsel, and the judge (Baron Martin) sternly rebuked the witness.

"Sir," he observed, "you must treat the learned counsel with more respect."

"My lord," answered Jacobs, "I am sure you would not be so forgetful of etiquette as to call me 'Jacobs' upon so brief an acquaintance."

His lordship, amid much laughter, nodded his acquiescence in this undoubted rule of etiquette, and intimated as much to Huddleston, who, not noticing that the witness was respectfully addressing the judge, somewhat testily cried out:

"Come, Mr. Jacobs," emphasizing the prefix.

The witness, with the most perfect but irritating *sang froid*, turned around and remarked:

"Wait a minute, Mr. Huddleston. At present I am addressing a gentleman. When he has done with me I will give you every attention."

This hot rejoinder drew from all the young barristers present and from the public in court a roar of laughter; and even the grave seniors could not help expressing satisfaction at the spectacle of the biter bitten. Feeling that the laugh was against him, Huddleston changed his tactics, and smiling in return with a blandness which displayed his excellent teeth to great advantage, recommenced his attack:

"Well, Mr. Jacobs, let me ask you, are you good at accounts, or do you employ a bookkeeper?"

"My head is not good at accounts."

"I thought not. Your head is much too good-looking to be good for much."

"Well, Mr. Huddleston, in that particular attribute I certainly have the advantage of you."

A lawyer, cross-examining a negro witness in one of the justice courts at Macon, Georgia, was getting along fairly well until he asked the witness what his occupation was:

"I'se a carpenter, sah."

"What kind of a carpenter?"

"They calls me a jack-leg carpenter, sah."

"What is a jack-leg carpenter?"

"He is a carpenter who is not a first-class carpenter, sah."

"Well, explain fully what you understand a jack-leg carpenter to be."

"Boss, I declar' I dunno how ter 'splain any mo' 'xcept to say hit am jes de same diffunce twixt you an' er first-class lawyer."

Jeffrey and Cockburn were once engaged in a case in Scotland. Jeffrey began by asking one of the witnesses, a plain, stupid-looking countryman, "Is the defendant, in your opinion, perfectly sane?" The witness gazed in bewilderment at the question, but gave no answer. Jeffrey repeated it, altering the words, "Do you think the defendant capable of managing his own affairs?" Still in vain. "I ask you," said Jeffrey, "do you consider the man perfectly rational?"

No answer yet; the witness glowered with amazement and scratched his head.

"Let me tackle him," said Cockburn. Then, assuming his own broadest Scotch tones, and turning to the obdurate witness, he began, "Hae ye your mull (snuff-box) wi' ye?"

"Ou, ay," said the awkward fellow, stretching out his snuff-horn to Cockburn.

"Noo, hoo long hae ye kent John Sampson?" said the witty advocate, saluting the mull and taking a pinch.

"Ever since he was that height," was the ready reply, the witness indicating with his hand the alleged height.

"And dae ye think noo, atween you and me," said Cockburn, in his most insinuating Scottish brogue, "*that there's onything intill the creature?*"

"I would not lippen (trust) him with a bull calf," was the instant rejoinder.

The end was gained amid the convulsions of the court. Jeffrey said to Cockburn that he had fairly extracted the essence from the witness.

Counsel (cross-examining): "How large did you say this pan was?"

Witness: "A four-quart pan, I should say."

"What do you mean by a four-quart pan?"

"A pan that holds four quarts."

"Wine or beer measure?"

"Wine, no; beer, I guess it's beer; I won't be certain."

"But you think it's beer. What is the shape of a four-quart pan?"

"Round."

"Like a ball?"

"No; like a — like a barrel."

"Round like a barrel?"

"Yes."

"Well, is a four-quart pan tall or short?"

"It doesn't make any difference."

"If a pan was four inches across the bottom and twelve inches tall?"

"It wouldn't be a pan at all; it would be a pail."

"Then a pan can be a pail?"

"Why, no."

"But you just said so."

"Was there a hole in this pan?"

"Yes, a little hole."

"In the bottom or top?"

"Of course there wasn't any hole in the top."

"Then how could anything be poured into the pan?"

"Oh, I forgot; the top is all hole."

"And the bottom?"

"Is all pan."

"That will do. You see, gentlemen of the jury, the witness has no idea of a four-quart pan at all."

Henry Phillips, the vocalist, in his *Recollections*, gives an amusing episode in the trial of an English suit upon the copyright of the song: *The Fine Old English Gentleman.* Tom Cooke (composer of *Love's Ritornella* and musical director of Drury Lane Theater) was on the witness stand, and on request of counsel played the song upon a violin. The judge then asked with surprise:

"Is that all?"

Tom: "It is, my lord."

Judge: "Well, that appears to be very simple and easy."

Tom (holding out the bow and violin): "It is. Will your lordship try it?" (Roars of laughter.)

Usher: "Si-lence!"

Counsel: "Now, Mr. Cooke, is that which you have just played a melody?"

Tom: "Well, I really don't think it is. The first part is merely ascending the scale, and the few bars afterwards I don't think amount to a melody."

Counsel: "That is evading the question. Do you know what a melody is?"

Tom: "I'm an Irishman, and I think I do."

Counsel: "Well, define it."

Tom: "Define what?" (Both parties were now in a passion.)

Counsel: "Define, sir, what is a melody."

Tom: "It's impossible."

Counsel: "Can you decline a verb, sir?"

Tom: "I think I can."

Counsel: "Do, then.

Tom: "I'm an ass. He's an ass." (Pointing to the

barrister.) "You are an ass." (Roars of laughter in which the judge joined.)

Counsel: "Let that witness stand down."

In the rush of aspirants for places at Washington occurred the following examination by Judge C—— of a candidate for doorkeeper of the House — the candidate supposing the judge to be a member of Congress:

"If you please, sir, I wish to be elected doorkeeper of the House, and if you will be so good as to vote for me I will try to —"

"Take a seat, sir, and I will examine you."

"Yes, sir, if you please."

Judge (gravely): "Have you ever been a doorkeeper?"

"No, sir; but I trust by your vote and —"

"Have you ever been instructed in the responsible and arduous duties of doorkeeping?"

"No, sir; but I would like to be."

"Have you ever attended lectures on doorkeeping?"

"Why, no; I never heard of any."

Judge (sternly): "Have you ever read a book on the science of doorkeeping?"

"I never did, sir; but I would if —"

"Have you ever conversed with one who has read such a book?"

"No, sir; but I certainly will."

Judge (solemnly): "Do you not see, sir, that you have not a single qualification for the office?"

Exit candidate.

Curran, John P.—Curran was known at school as "stuttering Jack Curran," and dubbed by a debating society to which he belonged, "Orator Mum," in honor of his signal failure as a speaker. By long practice of speech and gesture he surmounted every difficulty. He

turned his shrill, disagreeable voice into a flexible, sustained and finely-modulated one, and became one of the most brilliant and eloquent advocates that the world has ever produced.

His sweet and tender pathos appears in the following quotation from one of his addresses. Lord Avonmore, an old college companion of his, was on the bench. They had been members of a certain joyous club. Curran, expressing the hope that the decision of the court would be favorable, said:

"This soothing hope I draw from the dearest and tenderest recollections of my life; from the remembrance of those Attic nights which we have spent with those admired, respected, beloved companions who have gone before us; over whose ashes the most precious tears of Ireland have been shed. (Here Lord A. could not refrain from tears.) Yes, my good lord, I see you do not forget them. I see their sacred forms passing in sad review before your memory."

His ruling passion was his joke; and it was strong, if not in death, at least in his last illness. One morning his physician observed:

"You seem to cough with more difficulty."

"That is surprising," answered Curran, "for I have been practicing all night."

While thus lying ill, Curran remarked to his friend, Father O'Leary, who also loved his joke: "I wish, O'Leary, you had the keys of heaven."

"Why, Curran?"

"Because you could let me in."

"It would be much better for you," said the good-humored priest, "if I had the keys of the other place, because I could let you out."

Of the elaborate but confused exposition of a point of law given by a learned sergeant, Curran said:

"He reminds me of a fool I once saw trying to open an oyster with a rolling pin."

Of the speech of a member of Parliament:

"It was like a long parenthesis, because that is a paragraph which may be omitted from beginning to end without any loss of meaning."

And of the address of Hewett:

"It put me exactly in mind of a familiar utensil called an extinguisher: It began at a point, and on it went widening and widening, until at last it fairly put out the subject altogether."

When asked what he thought of a certain speech in the House of Lords — made by an able speaker addicted to lofty language — he replied:

"I had only the advantage of hearing Lord —— airing his vocabulary."

Curran's wit, at times, was extremely bitter, as when asked by a young poet whom he disliked:

"Have you seen my 'Descent into Hell?'"

"No; I should be delighted to see it."

John Egan, a big, brawny Irish lawyer, commonly known as "Bully Egan," quarreled with Curran, who was of slight and diminutive stature. A duel followed. On the ground Egan complained that the disparity between his immense girth and height and Curran's size gave his antagonist a great advantage.

"I might as well fire at a razor's edge as at Curran," said Egan, "and he may hit me as easily as a turf stack."

"Egan," replied Curran, "I wish to take no advantage of you. Let my size be chalked upon your front, and I am quite content that every shot which hits outside that mark shall not count."

Rising to cross-examine a witness before a learned judge, who could not comprehend a jest, Curran observed that he began to laugh before a single question had been asked.

"What are you laughing at, friend?" asked Curran; "what are you laughing at? Let me tell you that a laugh without a joke is like — is like — "

"Like what, Mr. Curran?" interposed the judge, imagining he was at fault.

"Like a *contingent remainder* without any particular *estate* to support it."

A politician, wishing to elevate himself by giving a description of Ireland's grievances, asked Curran to supply him with a list of them. The latter, understanding the selfish motives of the former, declined granting his request. When asked by a friend why he had refused, Curran replied:

"At my time of life, I have no notion of turning hodman to any political architect."

When Curran happened to say that he could never speak in public over a quarter of an hour without moistening his lips, Sir Thomas Turton observed:

"I have the advantage of you, for I spoke the other night in the House of Commons for five hours, and never felt the least thirsty."

"It *is* very remarkable, indeed," rejoined Curran, "for everyone agrees that it was the *driest* speech of the session."

To a remark of Lord Clare, who curtly exclaimed at one of his legal positions, "If that be law, Mr. Curran, I may burn my law-books!" he replied, "Better read them, my lord."

Curran was once engaged in a legal argument, and behind him stood his colleague, a gentleman remarkably

tall and slender, and who had originally designed to take orders. The judge observing that the case involved a question of ecclesiastical law, Curran said:

"I can refer your lordship to a high authority behind me, who was once intended for the church; though"—in a whisper to a friend beside him—"in my opinion, he was fitter for the steeple."

A barrister entered one of the Four Courts, Dublin, with his wig so much awry as to cause a general titter. Seeing Curran smile, he said:

"Do you see anything ridiculous in my wig?"

"Nothing but the head."

On a bill of indictment in which Curran was interested, the grand jurors came into court to explain "why it was ignored." Curran, vexed by the stupidity of the jury, said to the foreman:

"You, sir, can have no objection to write upon the back of the bill "*Ignoramus*, for self and fellows. It will then be a *true* bill."

Being retained against a young captain, indicted for a gross assault, Curran, in his opening, said:

"My lord, I am counsel for the crown, and I am first to acquaint your lordship that this soldier—"

"Nay, sir," says the military hero, "I would have you know, sir, I am an officer!"

"O, sir, I beg your pardon; this officer who is no soldier."

Curran was at Cheltenham when his friends drew attention to a fashionable Irish gentleman who had the ugly habit of keeping his tongue exposed as he went along. On being asked what his countryman's motive could be, Curran readily hazarded the reply: "Oh! he's evidently trying *to catch* the English accent."

To a prosy member who asked him if he had read his last speech, he replied: "I hope I have."

Hearing that a very stingy and slovenly barrister had started for the continent with a shirt and a guinea, he observed:

"He'll not change either till he comes back.

Curran was pleading before Fitzgibbon, the Irish chancellor, with whom he was on terms of anything but friendship. The chancellor, with the distinct purpose, as it would seem, of insulting the advocate, brought with him on to the bench a large Newfoundland dog, to which he devoted a good deal of his attention while Curran was addressing a very claborate argument to him. At a very material point in the speech the judge turned quite away and seemed to be wholly engrossed with his dog. Curran ceased to speak.

"Go on, go on, Mr. Curran," said the chancellor.

"Oh, I beg a thousand pardons, my lord; I really was under the impression that your lordships were in consultation."

Lord Abernethy had the habit of contemptuously shaking his head during Curran's addresses to the jury, and Curran, in one of the cases, fearing the jury would be influenced, assured them his lordship was not expressing dissent. "When he shakes his head *there's nothing in it.*"

Davy, Sergeant.— Upon an action of assault and battery, an advocate was warmly laying out the cause of his client: "In short, said he, "I have pledged myself to plead this cause with all the learning, all the law, and all the credit I have."

"That's right," said Davy, "the man who pledges himself to nothing may easily keep his word."

Davy, being concerned in a cause which he wanted put off for a few days, asked Lord Mansfield when he would bring it on.

"Friday next," said the judge

"Will you consider, my lord, Friday next will be Good Friday?"

"I do not care for that," said the judge petulantly, "I shall sit for all that."

"Well, my lord, to be sure you may do as you please; but if you do, I believe you will be the first judge to do business on Good Friday since Pontius Pilate."

A gentleman once appeared in the Court of King's Bench as surety for a friend in the sum of three thousand pounds. Davy, though he well knew the responsibility of the gentleman, could not help his customary impertinence:

"Well, sir, how do you make yourself to be worth three thousand pounds?"

The gentleman specified the particulars up to two thousand nine hundred and forty pounds.

"Ay," said Davy, "that is not enough by sixty."

"For that sum," replied the other, "I have a note of hand of one Sergeant Davy, and I hope he will have the honesty soon to discharge it."

This set the whole court in a roar; the sergeant was for once abashed, and Lord Mansfield said:

"Well, brother, I think we may accept the bail."

Davy looked well to substantial fees for his professional services. He once had a large brief, with a fee of two guineas only at the back of it. His client asked him if he had read his brief. He pointed with his finger to the fee, and said, "as far as that I have read, and for the life of me, I can read no farther."

He was engaged at the Old Bailey, and, a very strong case having been made out, Judge Gould asked who was concerned for the prisoner. Davy replied, "My lord, I am concerned for him; *very much* concerned after what I have heard."

Day, William R.—Judge Day, of Canton, Ohio, as a lawyer, jurist and statesman, ranks high among the eminent men of his country.

A friend, writing of him, says: Diplomacy has been defined as the gentle art of lying: Judge Day hasn't it, and his success in the peace negotiations of Paris was a tribute to sterling yet tactful American truthfulness. Old World diplomats, accustomed to verbal feints and parries, could not understand this quiet, determined American, who said what he meant the first time and stuck to it. By raising a smudge of argument around the language of the protocol, they expected to confuse the main issue. But this village lawyer of Canton, accustomed to the clear statement of cases before a befogged jury, saw straight through their arts and argued well for his mighty client, the American nation.

A Madrid newspaper, commenting on the personality of the American Peace Commission, said of President Day: "He is a provincial lawyer without knowledge of diplomacy." A witty writer in the London *Mail*, referring to this remark, said: "They cannot understand him: he means what he says."

One of the most prominent judges of Canton, Ohio, where Day has lived nearly all his life, says of him: "He is a genius at truth-telling. When he states a case he does it so clearly and honestly that the jury cannot help believing him."

Mr. Austin Lynch, one of Judge Day's partners, says that one of the most remarkable things about Judge Day was his untiring industry as a student of the law. Unlike many lawyers, he did not stop his reading with his admission to the bar. There was never a case too abstruse nor even a precedent too remote to engage his attention. His associates in Canton say that they never have known his equal in presenting an honest, comprehensive statement of a case before a court or a jury. He never wasted words, he was rarely oratorical. As a cross-examiner he had the reputation of being exceedingly shrewd, with an astonishing quickness of repartee.

De Facto and De Jure.— A disciple of Coke, in Charleston, South Carolina, when asked by a "brudder" to explain the Latin terms *de facto* and *de jure*, replied: "Dey means dat you must prove *de facts* to de satisfaction ob *de jury*."

Demurrer.— The old Yankee's answer to "What is a demurrer?" is a quaint definition:

"It's a pleadin' of, 'Wal, sposin' it's so — wot of it?'"

A young attorney's argument on a demurrer: "May it please your honor, this is a stupendous question. Its decision by you this day will live in judicial history long after you and I shall have passed from this scene of earthly glory and sublunary vanity. When the tower of Pisa shall be forgotten; when Waterloo and Bunker Hill shall grow dim in the distant cycles of receding centuries; when the names of Napoleon, Marlborough, and Washington are no longer remembered; when the pyramids of the Pharaohs shall have crumbled into dust; when the hippopotamus shall cease to inhabit its native Nile,— even then your ruling on this demurrer will still survive in the

antique volumes of legal lore, fresh, green and imperishable."

Francis Hopkinson, of Pennsylvania, was a noted jurist and writer of the Revolutionary period. The following illustration of hair-splitting points arising on a demurrer is drawn from his "Specimen of a Modern Law-suit:"

This was an action on the statute of *Patrick* 4, chapter 16, called the Statute of Nails, which prohibits all subjects within the realm from cutting or paring their nails on a *Friday*, under the penalty of twenty shillings for every offence, to be recovered by the overseers of the poor, for the use of the poor of the county in which the offence should be committed. *Mistake* and others were overseers of the poor for the county of Antrim, and brought their action under the statute against the defendant. And it was in proof that the defendant had pared his thumb-nails and his great toe-nails on Friday, to wit, on Friday the —— day of ——, at twelve o'clock in the night of the same day.

Counsel for the defendant demurred to the facts, observing that, as this was a penal law, it ought to be strictly construed. And thereupon took three points of defence, viz.: *First*, it was urged that night is not day, and the statute expressly says *Fri-day* and not *Fri-night;* and the proof is that the cutting was at night. *Secondly*, it was contended that twelve o'clock on Friday night is, in fact, the beginning of Saturday morning, and therefore not within the statute. And *thirdly*, that the words of the statute are *ungues digitorum*,— Anglice, the *nails of the fingers*, and the testimony only respects *thumbs and great toes.*

The jury gave in a special verdict; whereupon, after long advisement, the judges were unanimously of opinion, on the first point, that, in construction of law, day

is night and night is day; because a day consists of twenty-four hours, and the law will not allow of fractions of a day; *de minimis non curat lex;* in English, the law does'nt stand upon trifles. On the second point, that twelve o'clock at night, being the precise line of division between Friday night and Saturday morning, is a portion or point of time which may be considered as belonging to both, or to either, or to neither, at the discretion of the court. And thirdly, that, in construction of law, fingers are thumbs and thumbs are fingers, and thumbs and fingers are great toes and little toes, and great toes and little toes are thumbs and fingers; and so judgment for the plaintiff.

Denman, Lord.— The mere repetition of the *Cantilena* of lawyers cannot make it law, unless it can be traced to some competent authority; and, if it be irreconcilable, to some clear legal principle.

— *O'Connell v. The Queen.*

A delusion, a mockery, and a snare. — *Ibid.*

Depew, Chauncey M.— Depew, of international fame — lawyer, politician, railway manager,— is a gifted and witty speaker of rare persuasive power. He spoke one evening during a presidential campaign at a town in the interior of New York. The next morning the chairman of the local committee took him in his carriage for a ride about the place. They had reached the suburbs and were admiring a bit of scenery when a man wearing a blue shirt and carrying a long whip on his shoulder approached from where he had been piloting an ox-team along the middle of the street, and said:

"You're the man that made the rattlin' speech up at the hall last night, I guess?"

Depew modestly admitted that he had indulged in some talk at the time and place specified.

"Didn't you have what you said writ out?" went on the man.

"No," replied the orator.

"You don't mean to say you made that all right up as you went along?"

"Yes."

"Jess hopped right up there, took a drink o' water out of the pitcher, hit the table a whack and waded in without no thinkin' nor nothin'?"

"Well, I suppose you might put it that way."

"Well, that beats me. You'll excuse me for stoppin' you, but what I wanted to say was that your speech convinced me, though I knowed all the time that it was the peskiest lie that was ever told. I made up my mind to vote your ticket, but I'd been willin' to bet a peck o' red apples that no man could stand up and tell such blamed convincin' lies without havin' 'em writ out. You must 'a' had an awful lot of practice."

Depew's address to the graduating class of the Syracuse Medical College is full of bright, suggestive things. Speaking of the professions, he said:

"They are crowded with incompetents. I know ministers who should be palace-car conductors; poor lawyers who would have been good drummers or clerks; and medical men who are more dangerous to their patients than the diseases they treat, who were designed by nature for the farm or the factory. The world is a workshop full of misfits, and misfits are always cheap. It requires both faculty and courage, when you have discovered your mistake, to drop your tools and start again. But if all the doctors, lawyers and ministers who never can get on in their professions would get out and find

other fields of labor, it would be infinitely better for themselves and the country."

At the New England Society dinner, in 1890, Depew, after paying a glowing tribute to the Yankee, said in a humorous vein:

The merit of the Yankee as a piece of human dynamite is that he is never satisfied. "This is heaven," said St. Peter to a new-comer who did not seem to appreciate his surroundings. "Yes," said he, "I suppose so; but I am from Boston."

The Puritan had always an interrogation mark before his face as large as a pothook which hung from the crane in the ample fire-place of the colonial kitchen. He was and is in faith an original thinker, and in politics a Mugwump. He accepts the truth of the Scriptures and then puts upon them his own interpretation. He is in thorough sympathy with the —

> John P. Robinson, he
> Said they didn't know everything down in Judee.

Against the Stuarts and the Episcopacy in the Old World; against Democratic subserviency to the slave power and Whig fear of attacking it in the New; against party idols without souls, and bosses without principles, he was and is always a kicker. The Dutchman, with his mild tendency to superstition and fondness for legends, would have joined in the ghost dance, but the Puritan would have examined the ghost. The Yankee stops a panic or restores confidence by going like a rifle ball straight for the mark. "Where was Starvation Camp located?" said a Hartford man through his nose to the great explorer, Stanley. "On the bank of the Congo," answered the traveler. "Waal, then," said the Yankee, "why didn't you fish?"

Mr. John Kendrick Bangs, the humorist, received the following letter from a city in one of the Pacific states:

"*John K. Bangs — Dear Sir:* I have been asked to respond to a toast at our Board of Trade's annual dinner next month, and I write to inquire what would be your lowest terms for preparing a good, rattling funny speech for me to deliver on that occasion. A prompt reply will oblige, Yours very truly,

"—— ——."

To which Mr. Bangs immediately sat down and penned the following answer:

"*Dear Sir:*— I am in receipt of your esteemed favor of the —— inst., and in reply would say that my regular rate for after-dinner speeches is $500 per speech. I have not as yet, however, opened up this line of goods in the west, and, as I am anxious to secure custom in that part of the country, I will offer you special terms, namely, $250 for such an address as you describe, the amount to be sent as soon as shipment is made. If the terms proposed are satisfactory, kindly let me know at once, but in that case I would request you not to mention the matter to Chauncey Depew or General Horace Porter, as I should not like them to know that I am cutting rates.

"Yours truly,

"John Kendrick Bangs."

This letter was duly sent, and on the day when it reached its destination Mr. Bangs received the following telegram:

"Your letter just received. If Chauncey Depew's speeches are written by you, then I don't want one."

Divorce.— 'Lias Bugson, the hue of whose complexion gained for the old man the nickname of Pitch, went to Little Rock, Arkansas, and called upon a lawyer.

"You want a divorce, I suppose," said the lawyer when 'Lias entered.

"Dat's it, sah; but how did you guess it?"

"Well, there is such a rush for divorces that I thought you might belong to the crowd. They all come to me. Upon what grounds will you apply for a divorce?"

"'Zertion."

"Desertion, eh?"

"Dat's it. Now, how much yer gwine charge me?"

"I won't be hard on you. I'll take the case for $10."

"An' not charge me nothin' lessen yer git de 'vorce?"

"Oh, I'll have to charge you anyway."

'Lias, after a moment's reflection, replied:

"I kain' go inter sich er trade ez dat. It's too bindin' on merse'f."

"Are you sure that you can prove desertion?"

"Jes ez sho ez I is dat I'se libin'."

"Well, if I gain the case give me $10; if not, you needn't give me anything."

"'Pears like it's sorter too much on yer own side yet. Now, lemme tell yer. I'se er sort o' bizniz pusson, an' I'll 'rgee ter dis fack wid yer. Ef I prove 'zertion an' yer den doan git de 'vorce, yer mus' gin me five dollars, an' if yer does git it, I'll gin yer ten. Mine, now, dat ef I kain' prube de 'zertion I doan claim nothin'."

"Wilful desertion?"

"Yes, sah."

"Well, I believe I'll take that."

"All right, sah, les put de money up."

The money was given to a stakeholder, and the bill for divorce was filed. When the trial came on, the lawyer, whispering to his client, said: "You'd better make a statement, and then let the witnesses be introduced."

"I doan b'lebe de witnesses is o' any use."

"Why?"

"'Case de cou't 'll take my word."

The lawyer laughed. The negro was called upon to make a statement.

"Genermen o' dis heah cou't," said he, "I said dat dar wa'nt no use in witnesses, 'case de cou't would take my word. Mr. Lawyer, I said dat I'd prube 'zertion in dis case, didn' I?"

"Yes."

"Uh huh, dat's whut I said, an' I'll do it."

"Introduce a witness," said the judge.

"No use, Jedge."

"Why?"

"'Case I knows dat I 'zerted de lady."

"You deserted her?"

"Yas, sah. Said dat I'd prube 'zertion. Er haw, haw, stakeholder, gin me mer $5."

The judge, after hearing an explanation of the arrangement, said: "Give him the $5."

"Thankee, Jedge," said the negro, when he had received the money. "Thankee, sah. Yer see, I wuz outer 'ployment, an' knowing dat dis heah lawyer is allus airter niggers ter git 'vorces, I thought I'd work him er little."

"You didn't want a divorce, I suppose," said the judge.

"Bless yer soul, no sah. Dar ain't no nigger in de country dat's got er better lady den I has."

"And you were merely playing with the court?"

"Dat's all, sah. Er haw, haw! Oh, dar's er heep er fun erbout dis ole nigger."

"Mr. Clerk," said the judge, "enter up a fine of $50 against Mr. 'Lias Bugson."

"Good Lawd, Jedge; whut fur?"

"For playing with the court. Oh," mimicking the negro, "dar's er heap er fun erbout dis old Jedge."

James D. Colt of the Massachusetts Supreme Court was not only a good judge but had a vein of genuine humor, which often enlivened a monotonous trial. Some time before his death he was holding court in Cambridge, and spent the day in hearing divorce cases. The day was hot, and the cases tiresome. The court was to adjourn that afternoon until the next session. As he began a case, he announced that it would be the last he should hear. The late Charles R. Train, for some years attorney-general, had a divorce case on the list for trial. He begged the judge to hear it.

"No," said the wearied judge, "there must be an end to this business somewhere, and I cannot hear any more this term."

Mr. Train pleaded the great necessity of his client being heard, but the judge was inexorable, and Mr. Train left the court and started for his home in Framingham. Not so his fair client She was pleading for separation from an unfaithful husband, and she remained until the close. Judge Colt was gathering up his papers preparatory to having the court adjourned. The woman saw the situation, and jumping up from her seat in the back part of the room, said:

"Judge, I want you to hear my case?"

"Who is your attorney?" asked the judge, sternly.

"Mr. Train, but he has gone home."

"Did you hear me say that I would hear no more cases this term?"

"Yes, but *you must* hear my case."

"Why so?"

"*I'm engaged to be married and the cards are out.*"

A smile went over the judge's face and he turned to the clerk of the court and said:

"Mr. Clerk, what had we better do?"

"Hear the case."

"Bring on your witnesses," said the judge to the woman, who complied, and took the stand herself. It was a clear case, and without opposition. In ten minutes the evidence was finished. "Enter a decree, Mr. Clerk," said the judge, "and you, Mr. Crier, make the proclamation."

The judge left immediately for home, and the woman went out of court in the best of spirits, to resume the new relation a few days hence, "for better or for worse."

Dooly, John M.— The sayings of Judge Dooly, eminent as a jurist and famous as a wit, are proverbial gems in the wit and humor of the Georgia bar.

The year 1818 was known as the dry year in Georgia, in which corn did not mature at all in large portions of the state.

"I've got the corn which will stand the drought," said Austin Edwards, the landlord of Elberton Hotel, to Dooly; I got the seed from a Tennessee hog-driver, and planted a square in my garden; every stalk had six large ears, and hanging to the tassel was a nice little gourd full of shelled corn. It beats all natur', Judge! Did you ever hear the like?"

The judge listened to the landlord with great gravity, and replied:

"Why, Austin, 'tain't a circumstance to the corn made by our friend Tom Haynes, of Hancock county. At court there, last week, I staid with Tom. He was just finishing gathering in a piece of bottom land which he cleared last winter and planted in June. It never rained upon it at all. He turned his hogs in to eat the almost dried-up small stalks. Going to look after his hogs the next morning, he saw an old one in great glee with a large ear of corn in her mouth. He couldn't imagine where she

had got it; but, on examining closely, he found she had rooted it up from the foot of a dried-up corn-stalk. Astonished, he looked at another, and another. He then had his field well dug over, and found from one to ten ears at the root all over the field. He said he made an excellent crop."

"Well, well," said Austin, "that beats my corn. I must have some of that seed."

It was thus Dooly handled great liars.

In 1819, a young attorney, John Jacks, was spouting furiously against John C. Calhoun, the great statesman of South Carolina:

"He oughtn't to be elected constable in his district. He hasn't either talents or principles," said Jacks.

Dooly heard him out and replied:

"Mr. Jacks, I know Mr. Calhoun well; and I am certain of his modesty and great respect for public opinion; and if *you* will write him, he will take down his name, and not run for Congress at all."

While Dooly was holding court in Washington county, Georgia, General Hanson, a great blower, seated himself by the side of the judge, and commenced giving him an account of his various pieces of property, to impress the judge with an idea of his great wealth.

"Stop a moment," said the judge. "Mr. Sheriff, call in John Jones, the Receiver of Tax Returns."

Jones soon made his appearance.

"Mr. Receiver," continued the judge, "come up here and make an inventory of General Hanson's property. He has mistaken me for you."

The boarders of a tavern in Georgia were annoyed by flies in their butter. Dooly took the tavernkeeper aside, and remarked to him, in a private way, that some of his

friends thought it would be best for him to put the butter on one plate and the flies on another, and let the people mix them to suit themselves. He merely suggested it for consideration.

Dooly was a man of undoubted bravery as well as waggery. Once he had the misfortune to offend Judge White, who challenged Dooly to mortal combat. White wore a cork leg. The two judges met on the field at the hour appointed, but Dooly was alone. White sent to ask where his second was.

"He has gone to the woods for a bit of hollow tree to put one of my legs in, that we may be even," Dooly replied.

The answer was too much for his opponent; he turned on the only heel he had, and left the field

Douglas, Stephen A.— Douglas, in his campaign against Lincoln, spoke in front of a western hotel, and Old Rube was an attentive listener. Afterwards he was asked by Mr. Hall, a prominent attorney, what he thought of the speech.

"Dat was heaby doctrine," said he — "de heabiest kind ob doctrine. But dar was lots ob ign'ant folks dar, Mr. Hall, dat didn't understand dat doctrine — not a bit of it. Dey didn't understand it, Mr. Hall, no more'n *you* did."

Douglas was very demonstrative in his professions of regard. One day he sat down on Beverly Tucker's knee, put his arm around the Virginian's neck, and exclaimed in his impulsive way:

"Bev., old boy, I love you."

"Douglas," says Tucker, "will you always love me?"

"Yes, Beverly, I will."

"But," persisted Tucker, "will you love me when you get to be President?"

"If I don't may I be blanked!" says Douglas. "What do you want me to do for you?"

"Well," says Tucker, "when you get to be President, all I want you to do for me is to pick out some public place and put your arm around my neck, just as you are doing now, and call me Bev."

On one of those memorable days when the Kansas-Nebraska bill was being debated, Senator Seward tapped Douglas on the shoulder and whispered in his ear that he had some "Bourbon" in the Senator's private room, which was twenty years old, and upon it he desired to get Douglas' judgment. The "Little Giant" declined, stating that he meant to speak in a few minutes, and wished his brain unclouded by the fumes of liquor. At the conclusion of his speech Douglas sank down exhausted in his chair, hardly conscious of the congratulations of those who flocked around him. At this juncture Seward seized the orator's arm and bore him off to the senatorial sanctum. "Here's the Bourbon, Douglas," said Seward, "try some; it's sixty years old." "Seward," remarked Douglas, "I have made to-day the longest speech ever delivered; history has no parallel for it." "How is that?" rejoined Seward, "you spoke about two hours only." Douglas, smiling, replied: "Don't you recollect that a moment before I obtained the floor you invited me to partake of some Bourbon twenty years old, and now, immediately after closing my remarks, you extend to me some of the same liquor, with the assertion that it is sixty years old!—a forty years' speech was never delivered before." Seward acknowledged the "corn," and the two enemies (politically) "smiled."

Dowse, Richard.—Dowse, who was a Baron of the Irish Court of Exchequer from 1872 till his death in 1890, was trying a case on circuit where the prisoner could

only understand Irish, and accordingly an interpreter was sworn. The prisoner said something to the interpreter, and the interpreter replied to him.

"What does he say?" demanded the judge.

"Nothing, my lord."

"How dare you say that, when we all heard it? Come, sir, what did he say?"

"My lord, it has nothing to do with the case."

"If you don't answer I shall commit you, sir. Now, what did he say?"

"Well, my lord, you'll excuse me, but he said, 'Who is that old woman, with the red bed-curtain round her, sitting up there?'"

"And what did you say?" asked his lordship.

"I said to him: 'Whisht, my boy, that is the old fellow as is going to hang you!'"

Drummond, Thomas.—Once Matt Carpenter undertook to play fast and loose in an argument before Judge Drummond. He was interrupted:

"Mr. Carpenter, you helped to pass this law. A man should be ashamed to quibble over a law of his own making."

As Carpenter went out of the court room, smarting under the rebuke like a whipped school boy, he remarked to a friend:

"Old Tom Drummond is the ablest legal mind this country has produced. I say it without reserve."

Eldon, Lord.—William Mathews, LL. D., in his delightfully written and instructive volume *Getting On in the World*, writing of the early struggles and later triumphs of Eldon, says:

"John Scott, afterwards Lord Eldon, rose at first slowly

to distinction. While studying law at London, he rose at four every morning and studied till late at night, binding a wet towel around his head to keep himself awake. Too poor to study under a special pleader, he copied out three folio volumes from a manuscript collection of precedents. When finally called to the bar, he hung long about the courts without employment. His prospects were so gloomy that he meditated leaving the metropolis and settling down as a provincial barrister in Newcastle, where a comfortable house in High street was his castle in the air. It was agreed between him and his wife that whatever he got during the first eleven months should be his, and whatever he got in the twelfth month should be hers. 'What a stingy dog,' he says, 'I must have been to have made such a bargain! I would not have done so afterwards. But, however, so it was; and how do you think it turned out? In the twelfth month I received half a guinea; eighteen pence went for fees, and Bessy got nine shillings; in the other eleven months I got but one shilling.'

"In the second year of his profession, 'business,' wrote the elder brother, William, to the second, Henry, 'is very dull with poor Jack,—very dull indeed; and, of consequence, he is not very lively. I heartily wish that business may brisken a little, or he will be heartily sick of his profession. I do all I can to keep up his spirits, but he is very gloomy.' Early in the third year occurred a case which laid the foundation of his fame. As he left Westminster Hall, a respectable solicitor touched him on the shoulder, and said, 'Young man, your bread and butter is cut for life.' In about eight years from his call to the bar he was on the high road to its highest honors. During the six years he was attorney-general, his annual emoluments varied from 10,000*l.* to 12,000*l.*

"After he had become lord chancellor, an application was made to him one day to allow a young man an income of two hundred a year out of an estate in dispute. 'Young gentleman,' said Lord Eldon, seeing the applicant in court, 'I hope that you will reflect that this is a very critical order I am making in your favor. This sum may furnish opportunity to talent, or it may paralyze all exertions. If I had had a certain two hundred a year at your age, I should not now be sitting where I am.' When Wilberforce asked the chancellor's advice about the best mode of study for the young Grants, to fit them for the bar,—'I have no rule to give them,' was the reply, 'but that they must make up their minds to live like a hermit and work like a horse.'"

Eldon's humorous playfulness appears in his letter to Dr. Fisher, an applicant for preferment:

"*Dear Fisher* (he wrote on one side of the letter sheet): "I cannot to-day give you the preferment for which you ask. "Your sincere friend,

"ELDON.

"Turn over;" and on the other side, "I gave it to you yesterday."

A pretty story is that of Miss Bridge's call upon Eldon. Eldon was sitting in his study, over a table of papers, when a young and lovely girl — slightly rustic in her attire, slightly embarrassed by the novelty of her position, but thoroughly in command of her wits — entered the room, and walked up to the lawyer's chair.

"My dear," said the chancellor, rising and bowing with old-world courtesy, "who *are* you?"

"Lord Eldon," answered the blushing maiden, "I am Bessie Bridge of Weobly, the daughter of the vicar of Weobly, and papa has sent me to remind you of a promise which you made him when I was a little baby, and you

were a guest in the house, on the occasion of your first election as member of Parliament for Weobly."

"A promise, my dear young lady?" interposed the chancellor, trying to recall how he had pledged himself.

"Yes, Lord Eldon, a promise. You were standing over my cradle when papa said to you, 'Mr. Scott, promise me that if ever you are lord chancellor, when my little girl is a poor clergyman's wife, you will give her husband a living;' and you answered, 'Mr. Bridge, my promise is not worth half-a-crown, but I give it to you, wishing it were worth more.'"

Enthusiastically the chancellor exclaimed, "You are quite right. I admit the obligation. I remember all about it;" and, then, after a pause, archly surveying the damsel, whose graces were the reverse of matronly, he added, "But surely the time for keeping my promise has not yet arrived? You cannot be any one's wife at present?"

For a few seconds Bessie hesitated for an answer, and then, with a blush and a ripple of silver laughter, she replied, "No, but I do so wish to be *somebody's* wife. I am engaged to a young clergyman, and there's a living in Herefordshire near my old home that has recently fallen vacant, and if you'll give it to Alfred, why then, Lord Eldon, we shall marry before the end of the year."

Is there need to say that the chancellor forthwith summoned his secretary, that the secretary made out the presentation to Bessie's lover, and that, having given the chancellor a kiss of gratitude, Bessie made good speed back to Herefordshire, hugging the precious document the whole way home?

While at the bar, John Scott (Lord Eldon), in pleading before the House of Lords one day, happened to say in his broadest Scotch accent: "In plain English, ma lords."

Upon which a noble lord jocosely remarked: "In plain Scotch you mean, Mr. Scott."

The prompt advocate instantly rejoined: "Nae matter! in plain common sense, ma lords, and that's the same in a' languages, ye'll ken."

On another occasion, before a committee of the House of Lords, using the word "water," he pronounced it in his native Doric as "watter."

The noble lord, the chairman, had the rudeness to interpose with the remark:

"In England, Mr. Scott, we spell water with one "t."

Scott was for a moment taken back, but his native wit reasserted itself, and he rejoined:

"There may na be twa 't's' in watter, my lord, but there are twa 'n's' in manners."

"My lord, I assure you there is no understanding between us,' exclaimed an eminent English lawyer who had been suspected of collusion with the counsel who represented the other side.

Lord Eldon thereupon observed:

"I once heard a squire in the House of Commons say of himself and another squire: 'We never through life had one idea between us;' but I tremble for the suitors when I am told that two distinguished practitioners have no understanding between them!"

Capital are some of the stories concerning Eldon and his ecclesiastical patronage. Dating the letter from No. 2 Charlotte Street, Pimlico, the chancellor's eldest son sent his father the following anonymous epistle:—

"Hear, generous lawyer! hear my prayer,
Nor let my freedom make you stare,
In hailing you Jack Scott!
Tho' now upon the woolsack placed,
With wealth, with power, with title graced,
Once nearer was our lot.

"Say by what name the hapless bard
May best attract your kind regard —
Plain Jack? — Sir John? — or Eldon?
Give from your ample store of giving,
A starving priest some little living —
The world will cry out 'Well done.'

"In vain, without a patron's aid,
I've prayed and preached, and preached and prayed —
Applauded but *ill-fed*.
Such vain *eclat* let others share;
Alas, I cannot feed on air —
I ask not *praise*, but *bread*."

Satisfactorily hoaxed by the rhymer, the chancellor went to Pimlico in search of the clerical poetaster, and found him not.

Eldon disliked Boswell, and one of his brightest sayings was his reply to the latter's importunate entreaties for a definition of the word "taste."

"Boswell, we must have an end of this. 'Taste,' according to my definition, is the judgment you manifested when you determined to quit Scotland and come to the south."

When Eldon presented an anti-Catholic petition from the company of tailors at Glasgow, the chancellor, still sitting on the woolsack, said in a stage whisper, loud enough to be heard in the galleries:

"What! do tailors trouble themselves with such measures?"

"My noble and learned friend might have been aware," replied Eldon, "that *tailors* cannot like *turn-coats*."

It was a famous saying of Eldon's that "some barristers succeeded by great talents, some by high connections, some by miracle, but the great majority by commencing without a shilling."

It was the habit of Eldon, when attorney-general, to close his speeches with some remarks justifying his own character. At the trial of Horne Tooke, speaking of his own reputation, he said:

"It is the little inheritance I have to leave my children, and, by God's help, I will leave it unimpaired."

Here he shed tears, and, to the astonishment of those present, Mitford, an attorney, began to weep.

"Just look at Mitford," said a by-stander to Tooke; "what on earth is he crying for?"

Tooke replied: "He is weeping to think what a small inheritance Eldon's children are likely to get."

Of William and John Scott, afterward Lord Stowell and Lord Eldon, Lord John Russell used to tell with infinite zest a story which he declared to be highly characteristic of the methods by which they made their fortunes and position. When they were young men at the bar, having had a stroke of professional luck, they determined to celebrate the occasion by having a dinner at the tavern and going to the play. When it was time to call for the reckoning, William dropped a guinea. He and his brother searched for it in vain and came to the conclusion that it had fallen between the boards of the uncarpeted floor.

"This is a bad job," said William, "we must give up the play."

"Stop a bit," said John, "I know a trick worth two of that," and called the waitress.

"Betty," said he, "we've dropped two guineas. See if you can find them." Betty went down on her hands and knees and found the one guinea, which had rolled under the fender.

"That's a very good girl, Betty," said John, pocketing the coin, "and when you find the other you can keep it for your trouble." And the prudent brothers went with

light hearts to the play, and so eventually to the bench and the woolsack.

In *Dursley v. Berkeley*, 6 Ves. 260, Eldon makes a notable observation:

Upon that occasion Lord Chief Justice De Grey, in his most luminous judgment, said he never liked Equity so well as when it was like Law. The day before, I had heard Lord Mansfield say he never liked Law so well as when it was like Equity: remarkable sayings of these two great men, which made a strong impression on my memory.

A poor curate made a journey on foot to the residence of Eldon for the purpose of soliciting a vacant benefice, the incumbent of which had just died. Learning from his servant that the chancellor had gone out a short distance on a sporting trip, the curate went in search of him. Coming up with a man shabbily dressed, carrying a gun and accompanied with a brace of dogs, the curate inquired of him where he could find the chancellor. The sportsman, who was the chancellor himself, replied:

"Not far off."

As he made this reply, he fired at a flock of pigeons, with no success, as usual. The curate passed on in his search, and soon returned to the sportsman, whose several unproductive shots he had witnessed, and remarked to him that he was not a very successful shooter; and added:

"I wish you could tell me where to find Lord Eldon."

The sportsman replied:

"I am Lord Eldon."

The poor curate felt greatly embarrassed, and, in a stammering manner, made known his business. He was told by the chancellor that he never attended to such

business during his seasons of recreation, and that the journey had been a failure. The disappointed curate returned home, where he found a letter from the chancellor, giving him the preferment. After telling this story, Eldon said with a waggish smile:

"See the ingratitude of mankind! It was not long before a large present of game reached me, with a letter from my new-made rector, purporting that he had sent it to me; because, *from what he had seen of my shooting*, he supposed I must be badly off for game."

Eldon was noted for his indecision, many of his judgments being apparently influenced by the last arguments which he heard. Sir George Rose, alluding to this characteristic weakness of the chancellor, wrote:

"Mr. Leach
Made a speech,
Pithy, clear and strong.

Mr. Hart,
On the other part,
Was prosy, dull and long;

Mr. Parker
Made that darker,
Which was dark enough without;

Mr. Bell
Spoke so well,
That the chancellor said, 'I doubt.'"

One evening John Scott (Lord Eldon) had been dipping rather too freely in the convivial bowl with a friend in Queen street, and, on emerging into the open air, his intellect became to a considerable extent confused; and not being able to distinguish objects with any degree of minuteness or certainty, he thought himself in a fair way of losing the road to his own house in Picardy Place. In this perplexity he espied someone coming towards him,

whom he stopped with this query: "D'ye ken whaur John Scott bides?"

"What's the use o' your speerin' that question?" said the man. "You're John Scott yoursel'."

"I ken that," said John; "but it's no himsel' that's wanted — it's his house."

Ellenborough, Lord.— On one occasion Ellenborough was under the necessity of listening to an advocate who had the reputation of being a sound lawyer but a terrible bore. The question before the court was the ratability of certain lime quarries for relief of the poor. Counsel contended, at a wearisome length, that such property was not ratable, because the limestone in the quarries could be reached only by deep boring, which was a matter of science.

"Well," interrupted his lordship, "you will hardly succeed in convincing us, sir, that every species of boring is a matter of science."

To the surgeon in the witness-box who said: "I employ myself as a surgeon," Ellenborough retorted, "But does anyone else employ you as a surgeon?"

A Westminster volunteer corps, whilst exercising in Tothill Fields, being overtaken by a violent storm of wind and rain, took shelter in Westminster Hall while Ellenborough was presiding in the Court of King's Bench. Ellenborough said: "What is the meaning of that disturbance?" "My lord," said the usher, "it is a volunteer regiment exercising." "Exercising!" said Ellenborough, "we will see who is best at that. Go to the regiment and inform it that if it depart not instantly, I will give it into the custody of a tipstaff."

When Randle Jackson, who despised technicalities, and relied on his eloquence, began his argument, "In the book

of Nature it is written,"—Ellenborough broke in, "Be good enough, sir, to mention the page from which you are about to quote."

To Mr. Preston, the famous conveyancer, who in arguing a case had not exhausted the "Year-Books" by evening, and applied to know when it would be their lordships' pleasure to hear the remainder of his argument, Ellenborough replied:

"Mr. Preston, we are bound to hear you, and I hope we shall do so on Friday; but, alas! pleasure has been long out of the question."

Another tiresome conveyancer, having, toward the end of Easter Term, occupied the court an entire day about the *merger of a term*, the chief justice said to him:

"I am afraid, sir, the *term*, although a long one, will *merge* in your argument."

When told that the penurious Lord Kenyon was dying, Ellenborough asked, "Dying? what will he get by that?"

An impudent young member of the bar, addressing the court in a criminal case, began:

"My unfortunate client"—and repeating it two or three times, stopped short.

"Go on, sir, go on," said Ellenborough, "so far, the court is with you."

Lord Westmoreland was in the House of Lords, and, in giving his opinion on the question in debate, said:

"My lords, at this point I asked myself a question." Lord Ellenborough, in a loud aside: "And a stupid answer you'll be sure to get to it."

Eloquence, Tangled.—Bright skeins of tangled eloquence may be gathered from addresses to court and jury. A scholarly advocate, with a defective memory,

electrified his listeners with the following eloquent appeal: "Gentlemen of the jury, it is better that ninety-nine innocent men should escape than one guilty man should be punished. A — I mean that it is better that ninety-nine guilty men should be punished than that one innocent man should escape. Well, gentlemen, you read your Bibles and know what I mean."

Mr. Benedict, of New York, in arguing the Weismiller case, referred to the great mass of testimony contained in the printed case, and said:

"There are a great many important questions of fact in this case. It would be impossible to make your honors understand them all; and for that reason, also, we ask that the nonsuit be set aside, and that the case be submitted to the judgment of twelve intelligent men."

"Gentlemen of the jury," said an Australian lawyer, "the case for the crown is a mere skeleton — a mere skeleton, gentlemen; for, as I shall presently show you, it has neither flesh, blood nor bones in it."

A western attorney eloquently said, "Your honor sits high upon the adorable seat of justice, like the rock of Gibraltar; while the eternal streams of justice, like the cadaverous clouds of the valley, flow meandering at your feet."

"Gentlemen of the jury," said a Scotch barrister, "having shown to you that the case made for the plaintiff is absolutely impossible, I shall now proceed to prove to you that it is in the highest degree improbable."

In the case of *Tucker v. Ely*, tried before the late Judge Morgan of New York, Mr. Maxon, in closing to the jury, said:

"The plaintiff and the defendant are both lawyers; all

the witnesses who have been sworn in the case are lawyers; the counsel of course are lawyers; in fact, every one in any way connected with the case is a respectable member of the bar of this county, with the single exception of his honor on the bench."

"Gentlemen of the jury," said an Irish barrister, "it will be for you to say whether this defendant shall be allowed to come into court with unblushing footsteps, with the cloak of hypocrisy in his mouth, and draw three bullocks out of my client's pocket with impunity."

A New Jersey lawyer, in addressing the court, was somewhat twisted in his remarks:

"Your honors do not sit there like marble statues to be wafted about by every idle breeze."

Sir Bryan O'Loghlen, of Victoria, perpetrated a delightful bull when he gravely told the Supreme Court:

"A verbal agreement is not worth the paper it's written on."

An Irish barrister, defending a prisoner in Limerick, said:

"Gentlemen of the jury, think of his poor mother — his only mother."

"Gentlemen of the jury," said a backwoods attorney in the last meshes of tangled eloquence, "you sit in that box as the great reservoir of Roman liberty, Spartan fame and Grecian polytheism. You are to swing the great flail of justice and electricity over this immense community in hydraulic majesty and in conjugal superfluity. You are to ascend the deep arcana of nature and dispose of my client with equiponderating concatenation and reverberating momentum. Such, gentlemen, is your sedative and stimulating character; my client is only a

man with domestic eccentricities and matrimonial configuration, not permitted, as you are, gentlemen, to bask in the primeval and lowest vales of society; he has to endure the red-hot sun of the universe, seated on the heights of nobility and feudal eminence! He has a wife of matrimonial propensities that henpecks the remainder of his days with soothing and bewitching verbosity. He has a family of domestic children that gather around the fireside of his peaceful domicile in tumultuous consanguinity and cry with screaming and reverberating momentum for bread, butter and molasses. Such, gentlemen, is the glowing and overwhelming character and defearance of my client, who stands here indicted by this persecuting pettifogger of this court, who is as much inferior to me as I am exterior to the judge, and you, gentlemen of the jury. This borax of the law has brought witnesses into this court, who swore my client stole a firkin of butter; but I say they swore to a lie, every one of them, and the truth is concentrated within them, and I will prove it by a learned expectoration of the principles of law.

"Now, butter is made of grass, and it is laid down in St. Peter Pindar in his principles of subterraneous law, pages 18 to 27, inclusive, that grass is couchant and levant, which means, in our obicular tongue, that grass is of a mild and free nature, and therefore you see that my client had a right to grass and butter both. Again, butter is made of grease, and Greece is a foreign country situated in the far-off and emaciated country of Liberia and California, and therefore my client is out of the benediction of this court and cannot be tried in this horizon.

"I will now bring forward the *ultimantum respondenti* and cap the great climax of logic by quoting an inconceivable maxim of law laid down in Latin in Hannibal,

Hudibras, Blackstone and Sangrado. It is this: *heck, hock, morus, multicalus, emensa et thoro guta bega sentum;* which means in English, that ninety-nine men are guilty where one is innocent. It is therefore your duty, gentlemen, to convict ninety-nine men first, then you come to my client, who is innocent, and acquit according to the law.

"If these great principles shall be duly appreciated by this court, then the great north pole of liberty that has stood so many years in pneumatic tallness shall continue to stand the wreck of the Indian invasion, the pirates of the Hypoborian seas, and the marauders of the Aurora Boliver. But, gentlemen, if you convict my client, his children will be obliged to pine away in a state of hopeless matrimony, and his beautiful wife will stand alone and deserted like a dried-up mullen stalk in a sheep pasture."

In an address to a jury, Mr. Carson, Q. C., used this expressive language:

"Gentlemen of the jury, the charges against my clients are only mare's nests which have been traced to their birth, and are found to have had neither origin nor existence."

In another case counsel said, "My client acted boldly. He saw the storm brewing in the distance; but he was not dismayed. He took the bull by the horns, and had him indicted for perjury."

Epigram.—Counselor Garrow, during his cross-examination of a prevaricating elderly female, by whom it was essential to prove that a tender of money had been made, had a scrap of paper thrown him by the opposite counsel, on which was written:

"Garrow, submit; that tough old jade
Can never prove a tender made."

After going to law:

This law, they say, great nature's chain connects,
That *causes* ever must produce effects.
In me behold reversed great nature's laws —
All my *effects* lost by a single *cause*.

In indenture or deed,
Tho' a thousand you read,
Neither comma nor colon you'll ken;
A stop intervening,
Might determine the meaning,
And what would the lawyers do then?
—*Samuel Bishop.*

Lord Erskine, on the removal of a distinguished counselor from a house in Red Lion Square, and an iron-monger becoming its occupant, wrote:

This house, where once a lawyer dwelt,
Is now a smith's. Alas!
How rapidly the iron age
Succeeds the age of brass!

Some one versified a joke of Jekyll's as follows:

"Sergeant Raine was one day
The counsel for Hay,
In a cause that for Appleby stood.
Quoth Jekyll the wit,
'I have never heard yet
Of the rain that did hay any good.'"

The English rule of the road — *to the left:*

"The rule of the road is a paradox quite
Both in riding and driving along;
If you go to the left you are sure to go right,
If you go the right you go wrong;

But in walking the streets, 'tis a different case,
To the right it is right you should bear;
To the left should be left quite enough of free space
For the persons you chance to meet there."

The judge who said to a diminutive counselor, "Sir, when a barrister addresses the court he must stand," on

receiving the reply, "I am standing on the bench, my lord," apologized, and immediately told another barrister of considerable height to sit down, only to receive the meek but overwhelming answer, "I am sitting down, my lord." This story appears in an epigram:

"Mahaffey and Collis, ill-paired in a case,
Representatives true of the rattling size ace;
To the heights of the law, though, I hope you will rise,
You will never be judges, I'm sure, of a(s)size."

The following epigram refers to a worthy but tedious sergeant, given to making long speeches. He had a rubicund countenance, and in the full-dress costume of the court of his day was a notable figure:

The sergeant pleads with face on fire,
And all the court may rue it;
His purple garments come from Tyre;
His arguments go to it.

An interesting case on the law of *strikes:*

A mechanic his labor will often discard
If the rate of his pay he dislikes;
But a clock — and its *case* is uncommonly hard —
Will continue to work though it *strikes.*
— *Thomas Hood.*

The following playful verses were written by Sir George Rose and James Smith, in allusion to Craven Street, Strand, where the latter resides:

At the top of my street the attorneys abound,
And down at the bottom the barges are found:
Fly, Honesty, fly to some safer retreat,
For there's craft in the river, and craft in the street.
— *James Smith.*

Why should Honesty fly to some safer retreat,
From attorneys and barges, od rot 'em?
For the lawyers are *just* at the top of the street,
And the barges are *just* at the bottom.
— *Sir George Rose.*

On a famous water-suit:

My wonder is really boundless,
That among the queer cases we try,
A land-case should often be groundless,
And a water-case always be dry! —*Saxe.*

Epitaph.— The poet Moore composed the following epitaph on a Dublin lawyer who left an unsavory reputation behind him:

"Here lies John Shaw,
Attorney-at-law;
And when he died,
The devil cried —
'Give me your paw,
John Shaw,—
Limb of the law.'"

Ben Jonson was going through a church in Surrey, and, seeing some poor people weeping over a grave, asked one of the women why they wept:

"We have lost our precious lawyer, Justice Randall," was the reply; "he was always so good — the best man ever lived — he kept us from going to law."

"Well," said Jonson, "I will send you an epitaph to write upon his tomb:"

"God works wonders now and then.
Here lies a lawyer, an honest man."

Epitaph on Sir John Strange, the reporter:

Here lies an honest lawyer, and that is *Strange.*

Lord Westbury despised the dogma of future punishment, and endeavored on one occasion to discuss the subject with Bishop Wilberforce. The bishop bluntly replied: "I really must decline to discuss the question because you are an interested party." This story of dogma naturally leads to an opinion delivered by Westbury in 1864, which

led a humorist to propose the following epitaph to his memory:

"Richard Baron Westbury, Lord High Chancellor of England. He was a distinguished judge and an eminent Christian, and a still more distinguished statesman. During his tenure of office he abolished the ancient method of conveying land, the time-honored institution of the Insolvency Court, and the eternity of punishment. Toward the close of his earthly career, he dismissed Hades with costs, and took away from the orthodox members of the Church of England their last hope of eternal damnation."

Samuel Heywood, an eminent sergeant in the early part of this century, was extensively employed on the Northern English Circuit, riding on the circuit a famous horse, called Pleader, upon whose death the witty Jekyll wrote *On Pleader's Tomb:*

Here lies a Pleader who ne'er urged a plea,
A Circuiteer who never took a fee.
From Court to Court to serve his friends he'd go,
And though a mute, a firm support bestow;
Through thick and thin he'd surely keep his way,
Carry his client safe, and win the day.

Press'd ever so by law, his course was straight,
He never sank or fell beneath its weight;
Called to the *Bar*, he rose as tho' design'd
To leave all other Barristers behind;
And such assistance fav'ring fortune gave,
He'd every *motion* he could wish to have.

Our care it is here to support his fame,
Report his merits and *record* his name.
To tell the world a Pleader lies below,
Who, by false steps or tricks, ne'er made a foe.

No petulant disputer, he would say
No contradictory word, but simply neigh.
Once on his legs, a sure and safe support,
He'd carry jury, witnesses, and Court.

Headstone epitaph to the memory of a far-West attorney, whose last days were spent with a vigilance committee: "Here lies John Bing: he never did anything else."

Equity.— The constitution adopted by the state of North Carolina in 1868 abolished courts of equity, giving the superior courts jurisdiction of all matters, legal and equitable, and the power to determine them in the same suit. Shortly afterwards ex-Judge B. was employed by a countryman to bring suit against his own brother for a trivial sum. The judge advised his client to attempt to compromise the matter, on the ground that it was too trivial to bring into court, especially considering the relationship of the parties. "Tell your brother," said the judge, "that he ought to consider the circumstances and settle, according to equity and right."

His advice was followed cheerfully, but the countryman returned the next day and reported that his efforts to compromise had been without avail.

"What did your brother say?" asked Judge B.

"Why, Jedge," said his client, scratching his head, "he said d—n eaquity! thar warnt no sich thing as eaquity no mo, which the new consecution done killed eaquity dead as Hector!"

"You go back and tell your foolish brother," said Judge B., slowly and softly, "that when he gets into the court-house he will find that 'eaquity' lacks a good deal of being dead. Furthermore (here his voice dropped to a whisper), *he has gone and cursed 'eaquity,'* and if the judge finds it out your brother will have to go to jail for contempt of court! Tell him that the best thing for him to do is to compromise, and keep away from the court-house for five or six years."

The compromise went through.

Erle, Lord.—A little out of the ordinary routine, and therefore the more enjoyable, was the reply of Lord Chief-Justice Erle to a member of the bar who apologized for a sally of wit which set the court laughing:

"The court is very much obliged to any learned gentleman who beguiles the tedium of a legal argument with a little honest hilarity."

Erle was prone to interrupt counsel when it was found that the judges had already made up their minds against him. On one occasion Mr. Boville, Q. C., was stopped with: "Here we stand, we four men, and we have all firmly (emphasizing the adverb) made up our minds that there must be a new trial; but if you think it worth while going on after that (playfully), why of course we'll keep on hearing you." Whereupon the Q. C. laughingly sat down.

On another occasion, interrupting counsel, he said:

"I beg to inform the counsel there is a time in the mind of every man at which he lets down the flood-gates of his understanding, and allows not one more drop to enter, and that time in my mind has fully arrived."

Erskine, John.—The late Judge Erskine, of Georgia, did not read law until he was forty-five years old, but he soon made his way to the front, and shortly after the close of the war President Johnson appointed him to the judgeship of the United States Court for the Northern and Southern Districts of Georgia. Erskine took great pleasure in relating one story which dealt with incidents in his early life and in his later years. When he was about sixteen years old he ran away from his home in Ireland. He joined the crew of a sailing vessel, but, as the captain could not make a sailor of him, he had to do the cooking, and was known to everybody on the ship as Johnny the Cook.

At the end of a year the youngster abandoned the sea and returned home. After completing his education he came to this country and settled in Georgia, where he was remarkably successful and prosperous. He had held his judgeship a year or two when he went to Savannah to preside over the Federal Court. One afternoon he strolled down to the river to look at the vessels in port. The captain of one of the ships came ashore and passed the judge, giving him a sharp glance. Evidently something puzzled the captain, for he retraced his steps and stared hard at the man, who was enjoying the scene on the river.

"Blowed if it isn't Johnny the Cook!" exclaimed the bluff sailor.

Erskine looked at him and recognized his old captain. The two shook hands heartily, and the captain told the other how he had identified him by a scar on his face.

"I haven't forgotten the fight in which you were so badly cut," said the veteran of the seas. "You proved yourself a man that day, and the whole ship sided with you."

A brief talk about old times followed, and then the captain glanced at his former cook's clothes.

"You must have prospered in this country," he remarked. "What is your line of business?"

"There is a long story connected with that," replied the judge, "and as I have to meet an appointment now, I must postpone it until I see you again. Meet me in the United States court room to-morrow morning at ten o'clock. Until then, good-by."

The captain promised to be on hand.

The next morning at ten o'clock Erskine was on the bench, in his black robe, dealing out justice to a crowd of moonshiners. In a few moments the old sea captain

walked into the court room. He glanced around in a dazed way, and was evidently disappointed in not finding the man he sought. Finally he raised his eyes to the bench. For a moment he seemed bewildered. He doubted his own eyes. Erskine saw him, and beckoned to him to come inside of the railing which fenced off the lawyers from the spectators.

With trembling steps the captain took his stand one step below the platform on which the judge sat. Erskine welcomed him cordially, and during some unimportant routine business told the astonished sailor about his career in America and his elevation to the bench.

The story was told in a low tone, and not a word of it was heard by anybody except the captain. The latter was so thoroughly astonished by what he saw and heard that he was anxious to get away, and he seemed to be gratified when the judge dismissed him with an invitation to dine with him at his hotel. When the mariner reached the bottom step he faced about and gave the judge a sweeping glance.

"Well, I'll be blowed!" he ejaculated, in a distinctly audible voice. He left the court room shaking his head and looking back every other step. Even when he was outside of the building he was in the same state of bewilderment. The incident afforded Judge Erskine intense enjoyment, and he frequently referred to it.

Erskine, Lord.—Erskine was a theatrical speaker, and omitted no pains to secure theatrical effect. It was noticed that he never appeared within the bar until the *cause celebre* had been called, and a buzz of excitement and anxious expectation testified the eagerness of the assembled crowd to see and hear him.

Of Erskine as an advocate, William Howitt says:

Lord Erskine has been pronounced by other distinguished lawyers the greatest forensic orator that England has ever produced, but his fiery and electric eloquence was not more remarkable than the warm and noble impulses of his heart. They were his humanity and patriotism, his indignation against whatever was unjust and oppressive, which kindled and inspired his great intellect, and their expression carried irresistibly the souls of his hearers along with him. Under the fervid outgush of his intense love of right, his vehement hatred of human wrong, the dullest hearts caught a new light and fire, and he drew verdicts from men who, without his communicated spirit, would have never dreamed of the sublime heights of truth and justice to which he carried them. The secret of his triumphs was the possession of a noble heart vivifying a quick and instinct-like intellect. He seemed to spring at once to the truth of the case submitted to him, and he hurried his hearers with him almost unconsciously to the same goal. It is rare to see a mind like Erskine's surviving all the cold cautions and technical sophistries of a legal education, and seeking its triumphs only in the triumphs of humanity; a mind unseduced by royal favor or party, much less by selfish individual interests; exulting in securing the victory of truth, even at the highest peril of self-sacrifice. Such men may have their weaknesses, as Erskine had his, but they have a strength which no merely intellectual attainments can bring. For this reason there is no life of any lawyer which I ever read with the same delight as I have read that of Thomas Erskine.

Erskine, in cross-examining, could be most searching and severe; but he never resorted to browbeating, nor was he

gratuitously rude. Often he carried his point by coaxing; and when the evidence could not be contradicted, he would try by pleasantry to lessen the effect of it. He was counsel once for the plaintiff in an action for a tailor's bill, the defence being that the clothes were very ill-made, and particularly that the two sleeves of a dress-coat were of unequal length. The defendant's witness accordingly swore that "one of them was longer than the other," upon which Erskine thus began: "Now, sir, will you swear that one of them was not *shorter* than the other?" The witness negativing this proposition, after an amusing reply, the plaintiff had the verdict.

In the Thelwall case, the prisoner, becoming alarmed, wrote upon a slip of paper: "I'm afraid I'll be hanged if I don't plead my own case," and handed it to Erskine, his counsel, who replied: "You'll be hanged if you do."

Erskine was an incorrigible punster. He believed that nothing can make a dull thinker witty, no amount of brain cudgeling; and that it is not from every stick you can get the mercury of a happy punster. A gentleman once said to him that "punning is the lowest form of wit." "It is," answered Erskine, "and therefore the foundation of all wit."

A junior barrister, joining the circuit, had the misfortune to have his trunk cut off from the back of his post-chaise, on which Erskine comforted him by saying: "Young gentleman, henceforth imitate the elephant, the wisest of animals, *who always carries his trunk before him.*"

Having become the owner of a Sussex estate, on which grew nothing but birch trees, Erskine had the trees cut down and manufactured into brooms. One of his broom-sellers having been arrested and brought before a magis-

trate for having no license, Erskine undertook his defence, and stated that there was a clause to meet the very case.

"What is it?" asked the magistrate.

"The *sweeping* clause, your worship, which is further fortified by the proviso that 'nothing herein contained shall prevent any proprietor of land from vending the produce thereof in any manner that to him shall seem fit.'"

Erskine, receiving his appointment to succeed Dundas as justiciary in Scotland, observed that he must go and order his silk robe.

"Never mind," said Dundas, "for the short time you will require it, you had better borrow mine."

"No," retorted Erskine, "no matter how short a time I may need it, Heaven forbid that I should begin my career by adopting the *abandoned habits* of my predecessor."

The noted British advocate, Mingay, speaking for a defendant who was sued for the price of keeping a horse, and defended on the ground that the fodder was of poor quality, said to the jury:

"Gentlemen, the oats and hay were unfit to eat, and naturally the horse demurred."

"He should have gone to the country," was Erskine's reply.

Sometimes Erskine's treatment of witnesses was very jocular, and sometimes very unfair; but his unfairness was redeemed by such delicacy of wit and courtesy of manner that his most malicious *jeux d'esprit* seldom angered the witnesses at whom they were aimed. A religious enthusiast objecting to be sworn in the usual manner, but stating that though he would not "kiss the book," he would "hold up his hand" and swear, Erskine

asked him to give his reason for preferring so eccentric a way to the ordinary mode of giving testimony.

"It is written in the book of Revelations," answered the man, "that the angel standing on the sea *held up his hand.*"

"But that does not apply to your case," urged the advocate; "for in the first place you are no angel; secondly, you cannot tell how the angel would have sworn if he had stood on dry ground, as you do."

Less fair was Erskine's treatment of the commercial traveler who appeared in the witness-box dressed in the height of fashion, and wearing a starched white necktie folded with the "Brummel fold." In an instant reading the character of the man, on whom he had never before set eyes, and knowing how necessary it was to put him in a state of extreme agitation and confusion before touching on the facts concerning which he had come to give evidence, Erskine rose, surveyed the coxcomb, and said, with an air of careless amusement:

"You were born and bred in Manchester, I *perceive.*"

Greatly astonished at this opening remark, the man answered nervously:

"A Manchester man — born and bred in Manchester."

"Exactly," observed Erskine, in a conversational tone, and as though he were imparting information to a personal friend; "I knew it from the absurd tie of your neck-cloth."

Erskine, speaking of animals, and hesitating to call them brutes, hit upon that happy phrase — the mute creation.

Crossing Hampstead Heath, Erskine saw a ruffianly driver most unmercifully pommeling a miserable, bare-boned pack-horse, and, remonstrating with him, received

this answer: "Why, it's my own; mayn't I use it as I please?" As the fellow spoke, he discharged a fresh shower of blows on the beast's raw back. Erskine, much irritated by this brutality, laid two or three sharp strokes of his walking-stick over the shoulders of the cowardly offender, who, crouching and grumbling, asked him what business he had to touch him with his stick. "Why," replied Erskine, "my stick is my own; mayn't I use it as I please?"

Counselor Lamb, an old man of a nervous temperament, was wont to begin his pleadings by drawing attention to his own timidity. On one occasion, when opposed to Erskine, he happened to remark that he felt himself growing more and more timid as he grew older.

"No wonder," replied the witty but relentless barrister, "every one knows that the older a lamb grows, the more sheepish it becomes."

In his defense of the liberty of the press, and the rights of the subject when assailed by the doctrine of constructive treason, Erskine had some of the severest conflicts with the court which any advocate was ever called to maintain. When the jury in the case of the Dean of St. Asaph brought in their verdict, "guilty of publishing *only*," which would have the effect of clearing the defendant, Justice Buller, who presided, acting on the principle held by the court, considered it beyond their province to make this addition, and determined they should withdraw it. Erskine, on the other hand, seized upon the word the moment it was uttered, and demanded to have it recorded. After some sparring between him and the court, he put the question to the foreman:

"Is the word *only* to stand as a part of your verdict?"

"Certainly," was the reply.

"Then I insist it shall be recorded," said Erskine.

"The verdict must be misunderstood," replied the judge.

"The jury," replied Erskine, "do understand their verdict."

"Sir, I will not be interrupted," retorted his lordship angrily.

"I stand here," said Erskine, "as an advocate for a brother citizen, and I desire the word *only* may be recorded."

At this Buller exclaimed: "Sit down, sir; remember your duty, or I shall be obliged to proceed in another manner."

Quick as a flash Erskine replied:

"Your lordship may proceed in what manner you think fit; I know my duty as well as your lordship knows yours; I shall not alter my conduct."

The spirit of the judge sank before the firmness of the advocate; no attempt was made to carry the threat into execution.

Shortly after the death of Mr. John Wright, a talented but unsuccessful advocate, Sheriff Anstruther remarked to Erskine:

"Poor Wright is dead. He has died very poor. It is said he has left no effects."

"That is not wonderful," replied the humorist; "as he had no causes he could have no effects."

Dr. Parr said to Erskine at one of their social meetings:

"Erskine, I mean to write your epitaph when you die."

"Doctor, it is almost a temptation to commit suicide."

"That which is called firmness in a king," said Erskine, "is called obstinacy in a donkey."

Evarts, William M.— Through the sober, serious side of Evarts' wonderful career at the bar a gleaming thread of gayety runs. No one enjoyed a good story more than he, and few told a better one. A member of the New York bar says:

"I believe his choicest *mot* was uttered at a dinner given several years ago in New York to Thomas Bayley Potter, a member of the English House of Commons. The Rev. Henry Potter was the host, while among the guests were a number of other well-known members of the Potter family. When it came Evarts' turn formally to speak, he began about in this way:

"When I remember that we are being entertained by the Rev. Henry — Potter; that we were invited to meet Sir Thomas Bayley — Potter; when I observe at my right Clarkson N.— Potter, and at my left the Rev. Eliphalet Nott — Potter, I am reminded of the young country clergyman who was unexpectedly summoned to supply a city pulpit. The church was so imposing and the congregation so fashionable that when he arose to make the opening invocation he found himself a good deal flustrated. The result was that to the consternation of his hearers he led off with the petition: 'O Lord, help us never to forget that Thou art the clay and that we are the potters.'"

At a New England Society dinner, Mark Twain had just finished a piquant address, when Evarts arose, shoved both of his hands down into his trousers pockets, as was his habit, and laughingly remarked:

"Doesn't it strike this company as a little unusual that a professional humorist should be funny?"

Mark Twain waited until the laughter excited by this sally had subsided, and then drawled out:

"Doesn't it strike this company as a little unusual that a lawyer should have his hands in his own pockets?"

One morning the elevator which carried him up to his office in the State Department contained an unusual number of strangers, presumably applicants for ministerships or consulships. Turning to a friend who accompanied him, Evarts whispered:

"This is the largest collection for foreign missions that I've seen taken up for some time."

At a reception in Washington City, he was drawn into a discussion between two ladies.

"Mr. Evarts," said one, "do you not think I am right in saying that a woman is always the best judge of another woman's character?"

"Madam," replied Evarts, "she is not only the best judge, but also the best executioner."

Lord Coleridge was at Mount Vernon with Evarts, and, talking about Washington, said:

"I have heard that he was a very strong man physically, and, standing on the lawn here, could throw a silver dollar across the river to the other bank."

Evarts paused a moment to measure the distance with his eye. It seemed rather a tall story, but it was not for him to belittle the Father of his Country in the eyes of a foreigner.

"Don't you believe it?" asked Coleridge.

"Yes," Evarts replied. "I think it's very likely true. You know a dollar would go farther in those days than it does now."

A gentleman who listened to his argument in a case before the Court of Appeals observed: "It takes a good deal to make that dignified court of last resort indulge in a smile, but Mr. Evarts did it. He was pitted against some great corporation, and in order to illustrate the quality of its magnanimity, he said: 'Why, if the court

please, when I think of the attitude taken by this road, I am reminded of the anecdote of the Irish bailiff who wrote to the proprietor of the estate, who was traveling on the Continent: 'The tenantry are behaving very badly, and have gone so far as to threaten to shoot *me* in case the rents are not reduced.' And in answer to the bailiff the landlord promptly wrote: 'Tell the tenants that the rents will not be reduced, and impress it upon them that no threats which they may make to shoot *you* will have the slightest influence upon *me*.'"

Evarts for years sent a half-barrel of pork every year to Bancroft, the historian, with a characteristic note. No one ever read these notes but Bancroft. When the historian died, these two notes from Evarts were found:

"*Dear Bancroft:* If your history of America ever becomes as successful as 'Carlyle's History of the French Revolution,' it will be largely attributable to my pen.

"EVARTS."

"*Dear Bancroft:* I send you two products of my pen to-day — my usual half-barrel of pork and my eulogy on Chief Justice Chase. EVARTS."

Evarts has been an invalid several years, and, though but a shadow of his former self, still retains much of his quaint, dry humor. Not long ago, while being dressed, he looked at his emaciated frame and remarked quietly:

"Just about one-half of myself. I wonder if the other half presents such a sorry appearance."

Examination — For Admission to the Bar.— F. C. Burnand, a popular English humorist, was admitted to the bar in 1862. The story of his examination for admission is delightfully told:

It was decided that I should go to the bar. The en-

trance being obtained by either passing an examination, or attending a course of lectures, I chose the latter, having lost confidence in myself from experience in the former method. I had nearly completed the appointed number, when I made a mistake in the day. This I explained to the lecturer, and it was overlooked. But in the following week for the first time I mistook the hour, and arrived when the door was shut, the last lecture given, and the professor gone into the country for his vacation.

A friend said "Oh, go in for the Exam. Easy as possible."

I suggested that there were legal difficulties which would pose me. His answer was confidently, "Not a bit. All law is founded upon the principles of common sense. Reduce any apparent legal difficulty to first principles, and there you are." I subsequently tried this, and certainly there I was, but didn't get any farther. "But technical terms one must get up," I objected. He was quite indignant.

"Technical terms," he replied, "can be mastered in a week's reading."

His theory was that hardly any lawyers know anything of law; that the men who get on best know the least; which is, to the beginner, encouraging as a theory, but fails when reduced to practice, or, more strictly speaking, when you, as a barrister, are reduced to *no* practice. However, what man dared I dared, and in I went. I read my paper through carefully; it didn't seem to contain much law that I was acquainted with; but, remembering my friend's advice about "first principles" and "common sense," I settled down to one question. It was this:

"Why is notice of a prior incumbrance, etc., which

ought to be, but is not, registered in a county registry, effectual to preserve priority?"

I tried to reduce this to principles of common sense. After much thought it struck me that perhaps if I *commenced* the answer on paper it would come right of itself somehow. So I began slowly on a large sheet and with a big "B" up in one corner: "Because——" yes, exactly, *because why?* It looked like the answer to a riddle. I glanced round at my neighbors; they were all scribbling away at various rates, heads down, well at their work. The examiner had his eye on me, so I made a feint to be thinking deeply, and scratched out "Because" slowly, and then wrote it again, in a different character, on another sheet of paper. After a few minutes I found that I had only been sketching fancy portraits of little examiners with big heads all about the page, with an occasional reminiscence of the lineaments of Buller, Fobbes & Grumbury. This I felt wouldn't pass me, so I made a bold jump to number seven, in consequence of recognizing the word "mortgage."

"No. VII. Why is a person taking a mortgage of property, and knowing that it was subject to an equitable mortgage, postponed to the latter?"

It was necessary to write something, so I commenced by saying that "By the word 'mortgage' we must understand——" This I scratched out, and on reconsideration began again thus: "To enter into this subject as fully as it deserves, we must reduce the technical question to the first principles of common sense." There I stopped. It was no good. An attempt to hit off an original definition of "Constructive Fraud" was also, I have reason to believe, a failure.

As an example of constructive fraud, I ventured upon the instance of a builder who had undertaken to erect a

habitable and solid house and who had "scamped" his work. I have since ascertained that this is not what the examiners meant by "Constructive Fraud."

A short, pointed question, evidently framed by a brisk examiner, caught my eye. "No. X. What is replevin?" I did not like to reply on paper that it was made up of the words "*Re*" and "*plevin*," which was the only answer that suggested itself to me after looking at it for five minutes; so I put this on one side, and, like a Mazeppa among the examination questions, again I urged on my wild career.

Page 3. On the second paper: Criminal Law. "If a prisoner has received judgment, and the sentence be afterward reversed by a court of error, can he be again indicted for the same offence?"

Here I was at home at last. "No," I wrote boldly. "He could not be indicted for the same offence, because"— now came an opportunity for a specimen of my *style;* the examiners could judge from this what an acquisition I should be to the bar as an advocate,— "because it is the glorious privilege of a native Englishman, of one whose birthright is to call himself free and never to know slavery," — this was, I felt, a too-evident paraphrase on the chorus of "Rule, Britannia;" but it looked well, and would succeed admirably if declaimed — "to be charged only once with the same offence; and being convicted, or unconvicted, it mattered not, he could never, never," — "Rule, Britannia" again! I ought to have given my attention to maritime law — "be again placed at the bar before twelve of his fellow-countrymen, ready to take his stand for the offence once committed, and" — here I felt I was getting weak, and might lapse into unconscious verbiage, so pulled up with — "in fact it was totally against the principles of English law and English common sense, on

which *all* law was founded," — this came in well — "to try a man twice for only one offence." After this effort I paused. What was the next question? The next was a pendant to the former, and ran thus:

"*Give the reason for your answer.*"

This took me aback. It involved reading my answer over again. I could see no reason for it. The more I thought of it the less reason I could see. In fact the whole case came gradually to assume a totally different complexion. Why shouldn't a man be tried twice if he deserved it, or could be caught again? "Caught again!" That suggested a new train of thought. Perhaps the question turned upon this supposition. Yet, if so, it was absurdly like the receipt attributed to Glasse in her cookery book, of "First catch your hare," and I couldn't very well write *that* down, as it might look like impertinence towards the examiner or benchers, or whoever they were who had to read these papers. "*Give the reason for your answer.*" No, I could not see any. There was no reason for it, except that I "didn't know any other." I'd leave it, and pretend I hadn't seen it.

Here was a simple one, almost pretty in its simplicity: "What constitutes the crime of larceny?"

"Taking a pocket-handkerchief" was the first answer that arose to my lips. But why only a pocket-handkerchief? That wouldn't do. "To take *anything*." That sounded like an invitation to luncheon — Would I take anything? 'Pon my word, I say to myself, one ought to know what larceny is. It was mere quibbling to say it was theft. No. The *viva voce* portion commenced.

"Could I," I was asked, "state some cases in which an indictment would lie for words spoken?"

Could I? No, I couldn't, but I would try. "An indictment would lie," I began, sticking closely to the form

of the question, "for words spoken when,"—here I considered. The examiner waited. *He* didn't suggest anything, so I began again—"words spoken,—that is,—in words spoken, an indictment would lie"—a sudden inspiration. I had mistaken the sense of the word *lie*. I had it, and finished brilliantly, "An indictment, in fact, would *lie*, if it said, for instance, that such and such words"—I lengthened it out on purpose to give a legal tone to my explanation—"said to have been spoken had *not* been spoken." The examiner looked up and asked me if I had understood his question. On my replying perfectly, he thanked me, and told me I might go. He had had enough of me. But I was beginning to take rather a fancy to him. I should like to have engaged him in general conversation. We should have understood one another then. He made a note of my name, and it was intimated to me the next morning that further attendance on my part in Lincoln's Inn Hall would, for the present, be dispensed with.

I subsequently ascertained that, in addition to giving this inspired answer, I had sent up my papers with my only answer mixed by mistake with two sheets full of grotesque examiners, admirably drawn by me with large heads and little legs. This was my mistake at Lincoln's Inn. Subsequently I completed my attendance on the lectures and at the dinners, was called to the bar, sat down by mistake (on that occasion) next to one of the judges of the land at the benchers' table, and was politely removed by the butler.

"I was admitted to the bar in California," said the Hon. Thomas B. Reed, of Maine, to a friend, "and Judge Wallace examined me. The great question of the hour was the legal-tender act. Everybody was discussing its constitutionality. Some said it was constitutional;

others said it was unconstitutional. The first question Judge Wallace asked me was:

"'Is the legal-tender act constitutional or unconstitutional?'"

"I didn't hesitate a minute. I said simply: 'It is unconstitutional.'"

"You can pass," said the judge. "We always pass a man who can settle great constitutional questions offhand."

Governor Mattacks of Vermont, at one time chairman of the committee to examine candidates for admission to the bar of Caledonia county, reported that one of the candidates had failed to pass the examination, having answered correctly but one question.

"And what was that?" asked the judge.

"I asked him, 'What is a fee-simple estate;' and he said he didn't know."

An examination passed by a student for admission to the bar occurred in one of the counties in Oklahoma. The applicant presented himself and the judge appointed a committee of three to examine him, with the following result:

Q. "What is meant by consideration in a contract?"

A. "That is when the parties take time to consider."

Q. "What is the difference between a general issue and a special issue?"

A. "A special issue is when one of the parties to an action denies all of the material facts, and the general issue is when both parties do."

Q. "What is equity?"

A. "I don't use any of that in my practice."

Q. "What is chancery practice?"

A. "Practice before a jury."

Q. "Who is the master of chancery?"

A. "The foreman."

Q. "When is a plea in abatement used?"

A. "When you want to get rid of a nuisance."

Q. "What is a demurrer?"

A. "That is when a lawyer is stumped."

Q. "What is common law?"

A. "Common law is practice before a justice of the peace."

Q. "Why must a contract be always clothed in terms either express or implied?"

A. "Because *Ex nudo pacto non oritur actio.*"

Law examiner: "I will state a case: Mother and daughter occupied the same bedroom with their two little boys. As the children strongly resembled each other, and were both dressed alike, the nurses exchanged the babies, so that no one could tell which belonged to the mother and which to the daughter. How would you settle the point?"

Candidate: "Are you quite sure, Herr Professor, that the babies were exchanged?"

Examiner: "Why, didn't I tell you so?"

Candidate: "Well, then, change them back again."

Young McCorkle passed the final examination for admission to the bar with flying colors:

"How many kinds of juries are there?"

"Three."

"What are they?"

"Grand jury, common jury, and perjury."

"What is law?"

"The last guess of the Supreme Court?"

"What is the Supreme Court?"

"A court of errors."

"How is the lower court reversed?"

"On error by the Supreme Court."

"What is an honest judge?"

"The noblest work of man"

Some years ago a young man applied to the District Court of Dallas, Texas, to be examined to practice law. He was rather deficient in Blackstone and Greenleaf, and seemed to lack the requisite preparation for admission to the bar. The examining lawyer badgered him until his brow was beaded with perspiration.

"Do you know what fraud is, in the judicial sense of the word?" inquired the examining attorney.

"I — hardly — think — I do," was the stammering reply.

"Well, fraud exists when a man takes advantage of his superior knowledge to injure an ignorant person."

"So, that's it, is it? Then if you take advantage of your superior knowledge of law to ask me questions I can't answer, owing to my ignorance, and in consequence thereby I am refused a license, I will be injured, and you will be guilty of fraud. Won't you, Judge?"

The lawyer was very thoughtful for a few moments, and then added reflectively:

"My young friend, I perceive you have great natural qualifications for the bar, and I shall recommend that a large, handsomely engrossed license be granted you in spite of your ignorance."

Mr. Elbert Hubbard, in his charming "Little Journeys to the Homes of American Statesmen," relates that when Patrick Henry arrived at Williamsburg, Va., he sought out his old friend Thomas Jefferson, afterwards President of the United States, because he liked him — and to save a tavern bill. And Henry announced that he had come to Williamsburg to be admitted to the bar.

"How long have you studied law?" asked Jefferson.

"Oh, for six weeks last Tuesday," was the answer.

Tradition has it that Jefferson advised Henry to go home and study at least a fortnight more before making his application. But Patrick declared that the way to learn law was to practice it. And he was duly admitted.

Mr. Hubbard, in the same volume, tells an interesting story of Henry Clay. Clay, at the age of twenty, arrived at Lexington, Ky., and requested a license to practice law. The Bar Association, consisting of about a dozen members, decided that no more lawyers were needed in Lexington. Clay demanded that he should be examined as to fitness, and the blackberry-bush Blackstones sat upon him, as a coroner would say, with intent to give him so stiff an examination that he would be glad to leave the town.

Many difficult questions had been asked and an attempt had been made to confuse and browbeat the youth, when the Nestor of the Lexington bar expectorated at a fly ten feet away, and remarked:

"Oh, the devil! there is no need of tryin' to keep a boy like this down — he's as fit as we, or fitter!"

And so he was admitted.

The late Sampson Levy, of the Philadelphia bar, was engaged to argue a case in New Jersey, and, presenting himself in the county court at Woodbury, was about to open the case, when the judge, with more presumption than learning or civility, said to him:

"Mr. Levy, we know you personally and by reputation, but our rules forbid any gentleman to practice in New Jersey unless he shall have been formally admitted."

"I beg your pardon," said Mr. Levy, "I was not aware

of it; but by way of mending the matter, I will ask some of my learned brethren here to move for my admission at once."

"But before any one can move your admission, it is necessary that you should be examined by the court, that it may satisfy itself as to your competency."

"Certainly," said Levy, "by all means; I am perfectly ready to submit to your rule, with one proviso that seems to me to be perfectly reasonable, that I shall first be allowed to *examine the court*, in order that I may ascertain whether the court is *competent to examine me*."

Expert.— Baron Alderson had a profound dislike for scientific witnesses, especially those of the medical profession, called upon to give an opinion upon the evidence they had heard in court; and he rarely failed in proposing some question to them which eventually proved a floorer. At the end of a long examination of a celebrated medical man, called to establish the incompetency of a deceased testator to make a will, the witness unfortunately said that he believed "all persons were subject to temporary fits of insanity."

"And when they are in them," asked the judge, "are they aware of their state?"

"Certainly not, my lord," was the reply; "they believe all they do and say, even if nonsensical, to be perfectly right and proper."

"Good Lord!" exclaimed Alderson, "then here have I taken no less than thirteen pages of notes of your evidence, and, after all, *you* may be in a fit of temporary insanity, talking nonsense, and believing it to be true!"

"What are you?" said the judge.

"An insane expert, your honor."

"Oh, you are! Well, you may step down, sir. I don't want any crazy persons giving testimony in this court?"

"I wish to ask this court," said a lawyer called as an expert, "if I am compelled to come into this case, in which I have no personal interest, and give a legal opinion for nothing?"

"Certainly," replied the judge, "give it for what it is worth."

A question usually asked an expert witness by an Irish judge (the late Justice Keogh) was:

"For whom, sir, do you appear? For the plaintiff or for the defendant?"

In referring to experts, Abraham Lincoln told a story of James Quarles, a distinguished lawyer of Tennessee. Quarles, he said, was trying a case, and, after producing his evidence, rested; whereupon the defense produced a witness who swore Quarles completely out of court and a verdict was rendered accordingly. After the trial one of his friends came to him and said:

"Why didn't you get that fellar to swar on your side?"

"I didn't know anything about him," replied Quarles.

"I might have told yer about him," said the friend, "for he would have swar for you jest as hard as he swar for the other side. That's his business. Judge, that fellar takes in swarrin' fer a livin'."

The "cocksuredness" with which experts in handwriting give their evidence was the subject of a striking rebuff in an Irish court some years ago. An expert having emphatically sworn that a document was a forgery, Mr. Sergeant Armstrong, a celebrated leader of the Irish bar in the seventies, rose to cross-examine. He looked at the witness for a second or two, and then asked this question:

"What about the dog?"

The witness seemed at a loss to understand the query,

which was repeated three times by the lawyer, with ever-increasing loudness of tone. At last the witness said:

"I do not understand you, sir. Pray be more explicit. What dog?"

"What dog?" rejoined the sergeant; "of course I refer to the dog that Baron Dowse told a jury he would not hang on your evidence!"

He sat on the jury. He noted with care
Everything that was offered in evidence there.
He took the exhibits with caution in hand,
And heard what the witnesses said on the stand.

As the days passed along he felt sure he could trust
His judgment to offer a verdict quite just;
But his confidence straightway gave place unto doubt,
When the experts their theories gravely brought out.

Of anatomy now he knows much that is new;
Of heredity's pranks; toxicology, too.
Craniotomy's wonders he's able to trace,
But he's wholly forgotten the facts in the case.

Fees, Statutory.—A Minnesota justice, newly elected, was waited on by a long-favored, unassuming country swain, about to become a happy Benedict. The knot being tied in the most approved manner, the groom said:

"How much do you charge, squire?"

"Well, the law allows me a dollar and a half; you may pay me what you please."

"All right. Here's fifty cents: *that'll make you two dollars.*"

A negro brought suit before a Georgia magistrate to recover a cow that had strayed into a farmer's pasture-field. The farmer failing to appear, the hearing proceeded, and the magistrate reserved his decision until ten o'clock the following morning. At the appointed hour he ascended the split-bottomed seat of justice. Having

adjusted his spectacles and arranged the Code and Form books in front of him, he delivered the following opinion:

"This case involves a p'int of consider'ble importance, 'bout which the court don't find nothin' laid down in the Code. Ther' ain't no doubt 'bout the cow belongin' to the nigger, and the court decides that p'int in his favor. But who's li'ble for the costs? Accordin' to the law the party losin' the case must pay the costs. Who air the parties to this suit? In ev'ry case ther' must be two parties — a plaintiff and a defendant. Now it's clare the nigger's the plaintiff, but who's the defendant? Mr. M—— can't be the defendant, because he didn't appear and claim the cow, and didn't make no defence to this suit. This leaves the nigger and the cow as the only rale parties befo' the court, and the nigger bein' the plaintiff, *the cow must be the defendant.* The plaintiff havin' won the case, the defendant is li'ble for the costs. Mr. Bailiff, I direct you to hold the cow 'till the costs air paid."

Captain X. was appointed a justice of the peace in a country place not far from Raleigh, North Carolina. Late one afternoon, while riding home, he met a young woman and a young man who wished to be married at once. Now, the captain had never witnessed a marriage. He remembered having seen a book about the house years before with a form of marriage in it; but where it was he could not remember. A less assured man would have been sorely perplexed, but not he. He lost no time in removing his hat, and remarked, "Hats off in the presence of the court." All being uncovered he said, "I'll swear you in fust. Hold up yer right hands."

"Me too," asked the friend of the groom.

"Of course," said the captain, "all witnesses must be sworn. You and each of you solemnly swear that the evidence you shall give in this case shall be the truth, th'

'ole truth, an' nothin' but the truth. You, John Marvin, do solemnly swear that to the best of your knowledge an' belief you take this yer woman ter have and ter hold for yerself, yer heirs, exekyerters, administrators, and assigns, for your an' their use an' behoof forever?"

"I do," answered the groom.

"You, Alice Ewer, take this yer man for yer husband, ter hev an' ter hold forever; and you do further swear that you are lawfully seized in fee-simple, are free from all incumbrance, and hev good right to sell, bargain and convey to the said grantee yerself, yer heirs, administrators and assigns?"

"I do," said the bride, rather doubtfully.

"Well, John," said the captain, "that'll be about a dollar 'n' fifty cents."

"Are we married?" asked the other.

"Not yet, ye ain't," quoth the captain, with emphasis; "but *the fee comes in here.*" After some fumbling it was produced and handed over to the "court," who examined it to make sure that it was all right, and then pocketed it, and continued:

"Know all men by these presents, that I, Captain X., of Raleigh, North Carolina, being in good health and of sound and disposin' mind, in consideration of a dollar 'n' fifty cents to me in hand paid, the receipt whereof is hereby acknowledged, do and by these presents have declared you man and wife during good behavior, and till otherwise ordered by the court"

Field, Stephen J.— A rather spare old gentleman, with thin, greyish whiskers, and wearing a pair of highly polished spectacles, leaned over the counter in the Southern Pacific Company's ticket office, in San Francisco, and asked a round-trip ticket to Portland.

"Thirty dollars," promptly responded the clerk.

The passenger laid the gold on the counter, and the clerk pulled the ticket out of the case and handed it toward him with a well-inked pen.

"What's that for?" asked the passenger, with a touch of contempt in his tone and glancing toward the pen.

"Sign there, please."

"No, sir; I refuse. There is no law in the United States compelling me to sign a railroad ticket. There is your money. Give me the ticket."

The somewhat ruffled agent looked at the passenger and then at the ticket, but did not touch the money. "What is your name, sir?" he asked at length.

"Stephen J. Field," was the reply.

Then it dawned upon the rather dazed mind of the young man behind the counter that he was talking to one of the justices of the Supreme Court of the United States. He quietly stamped the unsigned ticket, handed it to the passenger with a subdued air, and as he put the money in the drawer he was observed by the bystanders to be in a very reflective mood.

Garland, A. H.— When Garland was Attorney-General of the United States, he had a series of complaints from New York merchants on the subject of the debts of a young lawyer from the big town who was employed in the department. Garland was not a believer in the system of exacting the payment of private debts by government employees by the use of the official thumbscrew, and he made it a point to decline to receive personal complaints of this sort while he was in office. But the letters of the New York creditors of this young man became so petulant and threatening that the Attorney-General finally sent for the debtor to ask him if he was making any effort to settle.

"Young man," said the Attorney-General when the subject of the complaints entered his office, "just read over a few of these letters, will you, and then tell me if you think it's pleasant for me to have my mail burdened with such effusions?"

"Oh, creditors' letters, I suppose," replied the young man, coolly. "What do they suppose you've got to do with my debts, sir?"

"I have been endeavoring to arrive at some answer to that question myself," replied Garland. "Their desire is, however, to have me put it to you that you've either got to pay these debts or be discharged from the government employ."

"That's nice of them, I'm sure, sir," replied the youth from New York. "Then I suppose I'm to be fired?"

"Suppose you just doff your flippant manner," said the Attorney-General, severely, "and tell me about these debts. Are they all straight?"

"Straight as a string, sir," replied the young man, frankly. "I contracted them at a period when I was industriously engaged in playing the races, poker, and the devil, and I've never been able to get my head above water since, although I've been blowing in $1,000 out of my yearly $1,800 in a vain attempt to square up with these people ever since I got this job in the Department of Justice."

The Attorney-General looked the young fellow over.

"Well, do the best you can, my boy," he said, and three days later the young New Yorker was promoted to a $2,500 position. His New York creditors probably still preserve the red-hot letters which Garland wrote them in reply to their violent demands for the thumbscrewing of the young man.

Gibson, John Bannister.— Chief Justice Gibson, of Pennsylvania, was a jurist of the first magnitude, ranking worthily with Marshall, Kent, Shaw and Mansfield. His playful humor and quick wit brightened the pathway of his judicial career. A musician of rare ability, he carried his violin wherever he went, and told friends that he solved many a knotty problem while extemporizing chords or melodies on its strings.

Clearness, force and beauty are marked characteristics of Gibson's opinions. Chief Justice Black, himself a master of style, says:

"An opinion of his was an unbroken chain of logic from the beginning to the end. His argumentation was always characterized by great power, and sometimes it rose into irresistible energy, dashing opposition to pieces with a force like that of a battering-ram. Though the least voluminous writer of the court, the citations from him at the bar are more numerous than from all the rest put together. In some points he had not his equal on earth. Such vigor, clearness and precision of thought were never before united with the same felicity of diction. Brougham has sketched Lord Stowell, justly enough, as the greatest judicial writer that England could boast of, for force and beauty of style. He selects a sentence and calls on the reader to admire the remarkable elegance of its structure. I believe that Judge Gibson never wrote an opinion in his life from which a passage might not be taken stronger, as well as more graceful in its turn of expression, than this which is selected with so much care by a most zealous friend from all of Lord Stowell's."

Gibson was a practical joker. Once when Buchanan was his room-mate on circuit, and he himself unable to sleep, he waked Buchanan at intervals all night by put-

ting up the venetian blinds of the window and letting them fall with a crash.

In an argument in the Supreme Court an involved speaker made a pause, saying:

"Now, if the court understands me—"

Gibson replied quickly:

"I think we possibly understand you now, but if you continue I fear we shall not."

He had a law office in Beaver for one year, 1804–5. After Burnside came upon the supreme bench (he and Gibson had been former friends) they were speaking of their ages. Gibson stated his, and Burnside said:

"Why, Gibson, you are a year older; you forgot the year you lived in Beaver."

"My God, Burnside, don't bring that up against me, it ought not to be counted."

The tradition is that he spent that year fiddling in his office.

In an article by Gibson in the American Law Register for March, 1853, is the following passage on *codification:*

"Of all legal mechanism, statutory mechanism is the most imperfect; and this is one of the strongest objections to American codification. It is always adapted to the circumstances of a single case in the mind's eye of the constructor; and when it is required to work on any other, it works badly or not at all. A legislator who has but one model is like a shoemaker who has but one last."

To an attorney who said: "Judge, I observe you are a good listener," he replied:

"That is an art, sir, an acquisition, to be able to look one right in the eye and seem to hear all, yet lost in your reflections, to hear nothing; that, sir, is the very acme of judicial ability.

A lawyer addressing the court caught the eyes of the chief justice fixed upon him, and saw him now and then noting something on a paper before him. After he finished he said to a friend beside him:

"I think I have the chief justice; he drank in all I said; I should like to see his notes."

The court adjourned, and Gibson walked off leaving the paper.

The friend went up and looked at it, and was surprised to see no notes, but written every here and there:

"Fool — fool — fool."

Gowns.— If one would excite his risibles or arouse his contempt at the absurdities of official costumes, let him read of the rivalries and jealousies among judges, barristers and advocates, and the orders, both legal and judicial, as to parti-colored garments, and who might wear scarlet or yellow or black, and who might trim their collars or ruffs or gowns and wigs with ermine or miniver, and who only with lambskin, in old England. But our republican common-sense has reacted upon the mother country, and the late Chief Justice Campbell, in his Lives of the Chancellors, alluding to wigs, says:

"Who would have supposed that this grotesque ornament, fit only for an African chief, would be considered indispensable to the administration of justice in the middle of the nineteenth century."

The rigid observance of old English rules in the South Carolina courts, and a neglect of the same by Mr. James Louis Petigru, gave rise to the following passage:

"Mr. Petigru," said the judge, "you have on a light coat. You can't speak."

Petigru replied: "May it please the bench, I conform strictly to the law. Let me illustrate: The law says that

the barrister shall wear a black gown and coat, and your honor thinks that means a black coat."

"Yes," said the judge.

"Well, the law also says the sheriff shall wear a cocked hat and sword. Does your honor hold that the sword must be cocked as well as the hat?" He was permitted to go on.

Are lawyers conducting themselves with less courtesy and refinement, or with less respect to the court, than they have for the past hundred years, that they must now be rebuked and awed by majestic gowns; and will they have a higher regard for one of their number elevated to the bench when disguised in the garb of a woman? If the multitude are to be somewhat civilized and refined by gowns, the judges will need to wear them, not in courts alone, but in all public places; which would quite as much incommode them as the judicial *wig* did Lord Eldon, who prayed the king "that when he was not sitting at a court he might be allowed to appear in his own hair."

Hon. William M. Hall, of the Bedford, Pa., bar, writes forcefully on the subject of gowns:

"A real judge, who has dignity of character and conduct, whose knowledge of the law and manifest integrity of intention are known and read of all men, needs no robe. He has authority behind him — the majesty of the commonwealth which he represents. He has the reverence of law which an intelligent people entertain. Vestments may be necessary to impress ignorance. They are of no use in a contact with intelligence. They do not dignify want of legal learning or give strength to weakness or integrity to a political schemer.

"In a profound respect for law and the administration

of justice, the American people are excelled by no nationality, ancient or modern. The basis of it is not form or ceremony, not robes or wigs. It is an intelligent knowledge of the constitution of the government, and an appreciation of the necessity of respect for the administrators of distributive justice in order to the well-being of the community, which every good citizen has at heart.

"Do robes add to the force or strength of the pulpit orator? You cannot transmit dullness into discernment, ignorance into knowledge, attenuated drivel into logic, or a nerveless grasp into administrative talent, by encasing the man with a silk gown.

"Next after Almighty God the American people reverence law. It commands their respect, not through fear nor through forms or ceremonies, not on the basis of *omne ignotum pro nobile*, but because of an intelligent understanding of the principles of government, and the recognized necessity for a profound respect for constituted authority. They themselves help to make the law, and are a part of the sovereign power of which the judge is the representative. It is public opinion, not outward show, that gives majesty to the judge. It is the office, not the man, that is reverenced. The incumbent is respected because he fills the office worthily. No mere external sign is needed to inspire respect. An earnest, honest and proper discharge of the duties of the position insures it. You belittle real greatness when you dress it in toggery, and you fail to elevate incompetency by clothing it in a gown.

"In the early days of Dickinson College, when it was a Presbyterian institution, Dr. Nesbit, a Scotch divine, was imported to act as president. He was a pompous man, of great personal dignity, and wore a long camlet cloak lined with showy scarlet and fastened at the neck with

a silver clasp. One morning, as he took his constitutional walk in the suburbs of Carlisle, clad in his distinguished-looking garment, which fluttered somewhat in the breeze and displayed in part its brilliant lining, he passed a wagoner who strode along beside his team, with his black-snake whip under his arm, 'whistling as he went for want of thought.' 'Good morning, sir,' said the doctor, with head erect and with a condescending nod, and a strong emphasis upon the sir. Eyeing him askance, with a formal bow, the wagoner replied, 'Good morning, madam.'

"Everywhere through Europe are forms and ceremonies and official costumes and insignia — the effete remains of feudal times — more or less difficult to get rid of, doubtless, in an old and artificially constituted society. Nothing can be more unbecoming and uncomfortable than a horse-hair wig, such as are worn by the English barristers. To see a man in the midst of an argument lift the unsightly thing from his overheated head with one hand, while he runs the other through his natural hair to give his pate air and relief, is amusing to an American eye. It strikes one as absurdly ludicrous.

"What effect has the wearing of the gown upon the judge himself? Does it tend to puff him up and make him think more highly of himself than he ought to think? It won't add to his real knowledge of the law. Will it tend to make him think he knows more than he really does? Will it minister to a desire for ostentation? Will gowns add to the comfort of the judges? Is it because of the loose and easy fit of the garment that it has been adopted? If this is the ground, no one can object to it. But if it is with a desire to give dignity to the bench and impress the public by ostentatious display, it is a mistake and a step backward. It does not harmonize well with republican institutions and will fail of its object. The

true dignity of the bench springs from the reverence of the people for law, and the intelligent appreciation of the character of the judges. To seek to impress them through their eyes is lowering the standard, and is a retrogression toward the effete past."

The people who object so strenuously to gowns for judges and to the imaginary danger of gowns for lawyers find an amusing, if exaggerated, prototype in the American citizen represented by "Sam Slick," who, it is perhaps needless to say, was in reality the Nova Scotia judge, Thomas C. Haliburton. "What on airth," said he, "can a black gownd have to do with intelligence? Them sort of liveries may do in Europe, but they don't convene to our free and enlightened citizens. It's too foreign for us, too unphilosophical, too feudal, and a remnant of the dark ages. No, sir; our lawyers do as they like. Some of 'em dress in black, and some in white; some carry walking-sticks, and some umbrellas; some whittle sticks with penknives, and some shave the table; and some put their legs under the desks, and some put 'em on a-top of 'em, just as it suits 'em. They set as they please, dress as they please, and talk as they please. We are a free people. I guess if a judge in our country was to order the lawyers to appear all dressed in black, they'd soon ax him who elected him director-general of fashions, and where he found such arbitrary power in the constitution as that, committed to any man."

Grant, Sir William.— Many great men have been remarkably silent and taciturn. One of these was Grant, the learned Master of the Rolls. He was the most patient of judges. He listened for two days to an argument as to the effect of a certain Act of Parliament, and, when counsel had finished, simply said, "Gentlemen, that Act has been repealed."

On one of his visits to his native county of Banff, he rode for a few miles accompanied by some friends. The only observation which escaped him was when passing a field of peas: "Very fine peas." Next day he rode out with the same party and was equally silent; but on again passing the identical field of peas he muttered, "And very finely podded, too."

Grier, Robert C.— The late Judge Grier, of the Supreme Court of the United States, owned a fine farm adjoining the city of Williamsport, Pennsylvania. The Philadelphia & Erie Railroad bisected this farm so as to render it undesirable for agricultural purposes. The judge claimed damages for land taken and injuries to the property. The jury being upon the ground to view it, and accompanied by the judge, his attorneys and the attorneys for the railroad company, a pathetic scene was enacted when the venerable and dignified judge lamented this ruthless invasion of his domain, and that in his old age he must see the lands, almost sacred to him, despoiled by an insatiable corporation that has not regard even for the spot of earth where in his youth he had wooed and won his bride, and where the happiest days of his life were passed. And in his own forcible and inimitable style, and with his head resting upon the upper rail of the fence, he exclaimed:

"Can it be possible that a citizen of Pennsylvania has no rights which are secure from the grasp of these corporations?"

At this point C. W. Scates, attorney for the corporation, archly, and in apparent sympathy with the judge, replied:

"No, my dear judge, no more rights now than the Dred Scott decision gives to the nigger."

Immediately the judge dried his tears, and with emphasis replied: "I stand by the Dred Scott decision."

Grosscup, P. S.— Judge Grosscup's response to the toast, *The Federal Judiciary*, at the banquet of the Illinois bar in 1896, is a fine tribute to Chief Justice Marshall and the Supreme Court of which he was a great leader:

After hearing General Black on "John Marshall," I must confess I would rather have his career than any other. He has influenced development in this country far more than either Washington or Lincoln. They were part of the great movements of their time. John Marshall was a great movement in himself, and built the judicial structure of which we are the heirs and beneficiaries. When the constitutional convention was held in 1777, only the seed was planted, and no one knew to what a growth it would come. In Marshall's mind alone was the seed germinated which has brought forth what we call America.

Marshall was the personification of the Federal judiciary. It was Marshall and the Supreme Court of the United States that developed all those great qualities which mark the republic's achievements. The clause that the law of the United States should be the supreme law of the land was Marshall's. Out of that has grown the great system by which the Supreme Court of the United States lays hands on all others, consolidates and unifies all judicial tribunals of this country, preventing any locality from tarnishing or destroying the national honor; that has developed all the transportation facilities of this land so that they have been made a single department of a central government. I see among us our senior senator, and I say to him and to you that in my judgment the man who has given this clause the first legislative sanction has a place more resplendent than eight years of the presidency will give him.

We have fallen on times which may seem somewhat strange. The judiciary of the United States had to bear,

however, much from popular clamor and fanaticism one hundred years ago. It is to Marshall and the Supreme Court of the United States that I owe it that my allegiance has not to travel through Springfield before it reaches Washington. If I violate the law of the country, the punishment comes from Washington direct.

The judiciary of the United States represents the great middle class — the bulk of the population between the criminal rich and the restless poor, who, after all, are the salt and savor of our institutions. No man in America has the monopoly of humanitarianism. The Federal judiciary cannot mark equality, but it can make conditions better. We are continually going upward. From bivouac to bivouac we climb still to a greater height in our march of progress. Humanity is not going to Calvary. It is on the road to the culmination of the teachings of Him who on the hills of Galilee said: "Go forth and teach all the world what I have told you." Humanity is not going forth to be crucified on a cross of gold nor to wear a crown of thorns. It is going upward toward that golden effulgence of humanity's resurrection morning.

Harrington, Theophilus.— Judge Harrington, of Vermont, away back in the first decade of the century, when asked to return a runaway slave, refused on the ground of insufficient evidence.

"What would you regard as sufficient?" asked the claimant.

"Nothing short of a bill of sale from Almighty God!" was the reply.

Hathaway, Samuel G.— Hathaway, of New York, of broad culture, fine literary accomplishments and great ability, shone in the front rank as one of the splendid

leaders of the Elmira bar. His was a lovable nature, brimming over with joyous humor. And his wit — when wit was required — shot like a flash to the front.

His arguments were constructed to convince rather than to amuse. Though persistent at times in urging his points to the court, his courtesy and tactful wit presented them without the shadow of impudence. On one occasion, in a trial before an eminent judge with whom he had been always on terms of great intimacy, he offered evidence, to which the opposing counsel objected. His honor sustained the objection.

"Will your honor allow me to state another reason why I deem the evidence proper?" said Hathaway.

"Certainly," said the judge; and the reason was given with great ingenuity and force.

"Still I think the testimony should not be received, even on that view of the case," replied his honor, stating the grounds upon which he founded his opinion.

"But perhaps there is another view of the case, which, if your honor will allow me to suggest it, may obviate the difficulty in your honor's mind."

"I will hear you," said the judge, "although it is clear to my mind that the testimony cannot be received in any point of view."

Hathaway presented a new theory as to the admissibility of the evidence. But the judge, inflexible in his opinion, directed counsel to proceed with the trial.

"I am so confident that this evidence should be received," said Hathaway, "that I wish to be heard further."

The patience of the court being now exhausted, the judge said, rather sharply:

"Colonel Hathaway, what do you think I am sitting here for?"

"Now your honor has me," said Hathaway, with one of his deferential smiles.

The infinite good humor and piquancy of this reply set the bar, jury and spectators in a roar of laughter, in which it was difficult for the judge himself, who loved a joke, to refrain from joining. With great gravity and dignity, however, he directed counsel to proceed with the trial of the cause.

Hathaway disliked pretension, sham, conceit and far-fetched phraseology. In a malpractice case in which he was counsel, a pretentious physician was a witness against his client. While giving his testimony, the doctor removed his glasses, and, assuming a very pompous air, said:

"Mr. Hathaway, I see, sir, that you do not understand the agglutination in cases of chronic peritonitis."

Hathaway made no reply at the time, but in his address to the jury said:

"Gentlemen of the jury, Doctor S—— has very frankly informed me that I am entirely ignorant of what he calls 'agglutination in a case of peritonitis.' I really think the doctor is in the same condition himself. He reminds me of another learned member of his profession, who, more frank than our doctor here, said to a lawyer one day: 'Lawyer, I cannot comprehend what you meant yesterday, when you talked about *docking an* entail.'

"'My dear doctor,' replied the lawyer, 'I don't wonder at that. I will explain the meaning; it is, doctor, doing what you never can do — *it is effecting a recovery.*'"

His passing away is touchingly told by a friend:

"As the 15th of April, 1864, drew to a close, a beautiful sunset lingered upon the landscape in front of Hathaway's room. He watched it until the last rays

faded away; then, whispering to those standing by, he said:

"'So the sun of my life goes down, but it will rise again to-morrow.'"

"The morrow came, and with its first bright sunbeams death came as gently, as softly, almost as sweetly, as that glorious sunlight fell upon the morning air."

Hawkins, Henry.— The retirement of Sir Henry Hawkins from the bench of Old Bailey is yet a prolific motive for anecdotes of this jurist. His picturesque and magnetic figure is thus described: He favored clothes of an old-fashioned and distinctly racy cut, tight trousers, a morning coat with large hip pockets and fancy vest, and either a white bowler hat or a stovepipe, with a particularly wide brim. The wide brim was softly suggestive of the betting ring, it being one of the peculiarities of a school of sportsmen to affect a certain garb which bears a resemblance to that of the church.

Hawkins once had to sentence an old swindler, and gave him seven years. The man in the dock squirmed and whined:

"Oh, my lord, I'll never live half the time."

Hawkins took another look at him and answered:

"I don't think it is at all desirable that you should."

The formality of asking a newly-convicted prisoner if he had anything to say why sentence should not be passed upon him brought another characteristic retort from the judge. A prisoner in these circumstances usually either says nothing or curses at large in his rage, but one of them struck a theatrical posture and with his right hand in the air, shouted:

"May the Almighty strike me dead if I don't speak the truth. I am innocent of this crime."

Hawkins said nothing for about a minute, when, after glancing at the clock, he fulminated in his most impressive tones:

"Since the Almighty has not thought fit to intervene, I will now proceed to pass sentence."

In a trial before Hawkins a dock laborer was subjected to a vigorous cross-examination, in the midst of which the learned judge put a question to him, which, not hearing his lordship's remark, the counsel quickly capped with another before the dock-hand had time to reply. "Look here!" said the latter to the eminent gentleman examining him. "You shut up; I'm talking to the governor now."

Hawkins was presiding over a tedious trial, listening, apparently with absorbed attention, to a long, uninteresting speech from a counsel learned in the law. Presently he made a pencil memorandum, folded it, and sent it by an usher to the counsel, who, unfolding it, found these words:

"Patience competition. Gold Medal, Sir Henry Hawkins. Honorable mention, Job."

Counsel wound up his argument with as little delay as possible.

Hawkins was once taken to be a member of the P. R. He was waiting to take his ticket at a railway station in Paris, at which there were a number of English roughs returning from the races, one of whom was very rude to him. The judge remonstrated, whereupon the man became more insulting, and said that if he would come outside he would give him "what for." Sir Henry, who wears his hair cut very short, then took off his hat, thinking that as the men were probably of the criminal classes they would recognize him, and quietly remarked:

"Perhaps you do not know who I am?"

Did the man in awe-stricken tones exclaim: "'Awkins, by thunder?"

No, what he said was: "S'elp me bob, a bloomin' prize-fighter. Not me!" and the judge was not further molested.

The caustic remarks of Hawkins have not always been confined to the bench. At the opening of an assize the chaplain preached what he conceived to be a distinctly good sermon, and he had the temerity to sound Hawkins on the subject: "Did you approve of my sermon, my lord?"

"I remarked in your sermon, Mr. Chaplain, two things which, to be candid, I did not approve of, and which I have, I am glad to say, never remarked on a similar occasion."

"They were, my lord?" was the anxious question of the preacher.

"The striking of the clock twice, sir."

During the hearing of the Tranby Croft baccarat case, much comment was caused by the manner in which Lord Coleridge allowed the bench to be occupied by lady spectators. Shortly after this case, Hawkins had to hear a libel action arising out of criticisms Mr. Parkinson, of the London County Council, had passed upon the moral character of some marionettes which were then being exhibited at the Westminster Aquarium. The marionettes — two male dolls and a female figure — were produced in court.

"Where shall we put these figures?" asked counsel.

"I suppose the lady," said Sir Henry, maliciously, "ought to be accommodated with a seat on the bench."

As a junior counsel, Hawkins was once practicing before Lord Campbell, who was somewhat pedantic. In ad-

dressing the jury, Hawkins, in referring to a brougham, pronounced the word with two syllables — brou-am. "Excuse me," said his lordship, blandly, "but I think that if instead of saying 'brough-am' you were to say 'broom' you would be more intelligible to the jury, and, moreover, you would save a syllable." "I am much obliged to your lordship," quietly replied Hawkins; and he proceeded to bring his address to a close. Presently, the judge, in summing up, made use of the word "omnibus." Instantly Hawkins exclaimed: "Pardon me, m' lud, but I would take the liberty of suggesting that instead of saying 'omnibus' your lordship should say 'bus,' and you would then be more intelligible to the jury, and besides you would save two syllables."

Sir Fitzjames Stephen, in referring to the humors, quips and cranks of Hawkins relates that he once asked Hawkins:

"How is it that you will persist in always behaving like a third-rate comic actor?"

"Why," replied Hawkins, "because I do it so devilish well, my boy."

Hearsay.— An eminent lord chief justice, trying a right-of-way case in England, had before him an old farmer, who was proceeding to tell the jury that he had "knowed the path for sixty year, and my feyther tould I as he heerd my grand-feyther say—"

"Stop!" said the judge, "we can't have any hearsay evidence here."

"Not?" exclaimed the farmer. "Then how dost know who thy feyther was 'cept by hearsay?"

After the laughter had subsided, the judge said: "In courts of law we can only be guided by what you have seen with your eyes."

"Oh, that be blowed for a tale!" replied the farmer. "I ha' a bile on the back of my neck, and I never seed 'un, but I be prepared to swear that he's there."

An Irish witness was being examined as to his knowledge of a shooting affair.

"Did you see the shot fired?" the magistrate asked.

"No, sorr. I only heard it."

"That evidence is not satisfactory," replied the magistrate sternly; "stand down!"

The witness proceeded to leave the box, and directly his back was turned he laughed derisively.

The magistrate, indignant at this contempt of court, asked him how he dared to laugh in court.

"Did ye see me laugh, your honor?"

"No, sir, but I heard you."

"That evidence is not satisfactory," said the witness with a twinkle in his eye.

At this everybody laughed except the magistrate.

The rule excluding hearsay evidence, or rather the mode in which that rule is frequently misunderstood in courts of justice, is amusingly caricatured by Mr. Dickens in his report of the case of *Bardell v. Pickwick:*

"I believe you are in the service of Mr. Pickwick, the defendant in this case. Speak up, if you please, Mr. Weller."

"I mean to speak up, sir," replied Sam. "I am in the service o' that 'ere gen'l'man, and werry good service it is."

"Little to do and plenty to get, I suppose?" said Sergeant Buzfuz with jocularity.

"Oh! quite enough to get, sir, as the soldier said ven they ordered him three hundred and fifty lashes," replied Sam.

"You must not tell us what the soldier or any other man said, sir," interposed the judge, "it's not evidence."

"Werry good, my lord," replied Sam.

Prosecuting attorney (to witness): "State where you were born."

Attorney for the defence (rising in great excitement): "I 'bject, y'r honor!"

"What is your objection?"

"This man has no positive knowledge where he was born. All he knows about it is what his parents told him. Hearsay testimony, y'r honor, is not—"

"I think it will do no harm for the witness to answer the question."

(Hastily consulting with colleagues.) "We take exceptions, y'r honor."

Prosecuting attorney: "You may answer the question, Mr. Thompson—by the way, you spell Thompson with a "p," do you not?"

Attorney for the defence (jumping up frantically): "'Bject."

The court: "The objection is overruled."

Attorney for the defence (again consulting colleagues): "We take exception."

Prosecuting attorney (wiping his brow): "Gentlemen, isn't it too warm in this room?"

Attorney for the defence (mechanically): "'Bject."

Henry, Patrick.—Governor Giles, of Virginia, wrote Patrick Henry, demanding satisfaction:

"*Sir*, I understand that you have called me a 'bob-tail' politician. I wish to know if it be true; and if true, your meaning. WM. B. GILES."

To which Henry replied:

"*Sir*, I do not recollect having called you a bob-tail politician at any time, but think it probable I have. Not

recollecting the time or occasion, I can't say what I did mean; but if you will tell me what you think I meant, I will say whether you are correct or not.

"Very respectfully,

"PATRICK HENRY."

In the midst of the magnificent debate in the Virginia House of Burgesses on the resolutions offered against the Stamp Act, while descanting on the tyranny of the act, Henry exclaimed in a voice of thunder, and with the look of a god, "Cæsar had his Brutus, Charles the First his Cromwell, and George the Third"—"Treason!" cried the speaker. "Treason, treason!" echoed from every part of the house. It was one of those trying moments which are so decisive of character. He faltered not an instant; but rising to a loftier altitude, and fixing on the speaker an eye of most determined fire, he finished his sentence with the firmest emphasis, "may profit by their example. If this be treason, make the most of it." His resolution passed the house by a small majority.

Henry said in the Continental Congress, September 5, 1774: "I am not a Virginian, but an American."

Hitchcock, Peter.— Chief Justice Hitchcock, of the Supreme Court of Ohio, was one of the great men of his day. While holding court at Cincinnati, an attorney who believed in the use of authorities to convince judges had filled the table in front of the bench with a stock of law-books. When court opened and the judges were seated, Hitchcock, looking at the attorney and then at his stock of books, observed:

"Brother R., do you mean to rile the court with all those books? I will have you know, sir, that this court does not keep a law-school!"

"But I do," was the cutting reply, "and I mean to teach you judges a bit of law."

The judge quit at this point, and counsel proceeded with his argument.

On another occasion a young attorney remarked, at the close of his argument, that the record in the case and his brief conclusively showed the merits of his client's side, and he hoped that the court would read them.

Hitchcock quickly said:

"Do you mean to insinuate that the court does not read the papers in the case? You are impudent, sir!"

"I do not insinuate at all," replied the attorney, "nor am I impudent. I merely ask the court to read the record; and the reason of my polite request is, that, taking account of the last decision your honors made against me, I don't believe the court looked at the papers at all, let alone read them."

Hitchcock quietly said to his associates on the bench:

"I wonder if the young man is not about half right?"

Some members of the bar present thought he was *all* right.

Holt, Lord.— If a young man sows wild oats he may forget about it, but other people have longer memories. Holt, when young, was very extravagant, and belonged to a club of wild fellows, most of whom took an infamous course of life. When his lordship was engaged at the Old Bailey, a man was tried and convicted of a robbery whom the judge remembered to have been one of his old companions. Moved by that curiosity which is natural on a retrospection of past life, Holt, thinking the fellow did not know him, asked what had become of such and such of his old associates.

"Ah, my lord," said the culprit, "they are all hanged but your lordship and I."

Index.— To prepare an index is, by no means, an amusing occupation; but to glance over one often is. The story about Mr. Best's great mind is a classic. As usually quoted it occurred as an entry in the index to Binn's "Justice:"

Best, Mr. Justice, his great mind.

And when the reader turned to the designated page, full of anticipatory admiration, he found only:

"Mr. Justice Best said that he had a great mind to commit the man for trial."

In one of the Scotch Reports: "Blasphemous publication — see Bible."

In the Canada Law Journal: "Devil — see Church of England."

Ingersoll, Robert G.— One of the stories of how Ingersoll failed to be nominated for governor of Illinois recounts that a friend entered his law office in Peoria one day and looked over his book shelves.

"How much did this cost you," he asked, looking at a copy of Paine's "The Age of Reason."

"The Governorship of Illinois."

Ingersoll was invited to attend a banquet at the Clover Club, New York.

"It is impossible to accept," he said. "I know your custom too well. I shall be called on for a speech and will be unmercifully guyed. I never could stand it. I refuse to put myself in such a position."

The club decided to waive the constitutional prerogative in his case, and he was informed of the fact.

"Then I gladly accept the invitation, and will surely be on hand."

He was. No sooner had the gallant iconoclast reached

his feet than a chap down at the end of the room began to interrupt. He was the only one in the club to say a word, but he was very annoying, and Ingersoll remarked:

"I came here as a guest, with the understanding that I was not to be interrupted. There was an agreement to that effect."

The man retorted:

"I never heard of any such agreement!"

The breaker of images said:

"My friend, you remind me of a story. There was a day set apart by the beasts of the field, the reptiles and the birds of the air for a general peace. Animals in the habit of preying upon each other agreed to meet together in one grand accord. A fox passing a chicken roost on the way to the meeting invited a hen to accompany him, and, when she politely declined, informed her of the peace agreement. 'Well, Mr. Fox, I will go under those conditions,' she said, and they trotted along side by side.

"Presently the baying of a pack of hounds was heard, and Mr. Fox started to run. 'Why do you run, Mr. Fox?' said Mrs. Hen. 'Remember the peace agreement.' Restraining himself Mr. Fox trotted on, but the pack of hounds drew nearer and nearer until he could stand it no longer. 'Mr. Fox,' urged Mrs. Hen, 'don't be afraid. Remember what you told me about the peace agreement. No hound would hurt you to-day. Trot along with me, and don't be in the least alarmed.' He could almost feel the breath of the hounds. 'Mrs. Hen,' he whispered, prepared to spring away, 'I do well remember the peace agreement, but there may be some fool hound in that pack that hasn't heard of it. Good by.'"

When Ingersoll had finished this story there was dead silence and he concluded his speech without further interruption.

Ingersoll's address at the soldiers' reunion, Indianapolis, is one of the most touchingly beautiful examples of vision in English literature. Its pathetic wit — broadly human — is eloquence of the highest order:

"The past rises before me like a dream. Again we are in the great struggle for national life. We hear the sounds of preparation — the music of the boisterous drums, the silver voices of heroic bugles. We see thousands of assemblages, and hear the appeals of orators; we see the pale cheeks of women and the flushed faces of men; and in those assemblages we see all the dead whose dust we have covered with flowers. We lose sight of them no more. We are with them when they enlist in the great army of freedom. We see them part from those they love. Some are walking for the last time in quiet woody places with the maidens they adore. We hear the whisperings and the sweet vows of eternal love as they lingeringly part forever. Others are bending over cradles, kissing babes that are asleep. Some are receiving the blessings of old men. Some are parting with mothers who hold them and press them to their hearts again and again, and say nothing; and some are talking with wives, and endeavoring with brave words spoken in the old tones to drive from their hearts the awful fear. We see them part. We see the wife standing in the door, with the babe in her arms — standing in the sunlight sobbing; at the turn of the road a hand waves—she answers by holding high in her loving hands the child. He is gone — and forever."

Ingersoll and Rev. Henry Ward Beecher were always great friends. Beecher had a celestial globe in his study, a present from some manufacturer. On it was an excellent representation of the constellations and stars which compose them. Ingersoll was delighted with the globe. He examined it closely and turned it round and round.

"It's just what I wanted," he said; "who made it?" "Who made it?" repeated Beecher; "who made this globe? Oh, nobody, Colonel; it just happened!"

Intemperance.— In the diary of Lord Clonmell, who was Chief Justice of Ireland at the end of the last century, there is this entry in reference to one of his brother puisne judges: "Boyd is drunken, idle, and mad." The judge is described by Sir Jonah Barrington as possessing a face like "a scarlet pincushion well studded." A newspaper, in praising his humanity, said that when passing sentence of death "he never failed to have a drop in his eye."

Mr. Fitzpatrick, in his "Ireland Before the Union," says that Daniel O'Connell remembered Boyd, and in a conversation with Mr. O'Neill, Daniel described him as so fond of brandy that he always kept a supply of it in court upon the desk before him in an inkstand of peculiar make. His lordship used to lean his arm upon the desk, bob down his head, and steal a hurried sip from time to time through a quill that lay among the pens, which maneuver he flattered himself escaped observation.

One day it was sought by counsel to convict a witness of having been intoxicated at the period to which his evidence referred. Grady, the counsel on the opposite side, labored hard to show that the man had been sober.

"Come, now, my good man," said Boyd, "it is a very important consideration; tell the court truly, were you drunk or sober upon that occasion?"

"Oh, quite sober, my lord," broke in Grady, with a significant look at the inkstand; "as sober as a judge."

Magistrate to drunken vagrant: "Why didn't you answer to your name?"

"Beg pardon, jedge, but I forgot wot name I gave las' night."

"Didn't you give your own name?"

"No, jedge, I'm travelin' incog."

A well-known lawyer, who for narrative purposes shall be nameless, came into the official presence of a learned judge whose cognomen shall likewise be discreetly veiled.

The lawyer did not arrive alone. He was accompanied by a large number of previously encompassed drinks.

"Mr. ——," remarked the judge, "I am astonished to see you in such a condition."

"Dishun!" sighed the lawyer. "Wazzer matter?"

"There is no need of explaining, sir."

"Yesher is. You 'tack my condishun — wazzer matter wish it?"

"To be plain, Mr. ——, you are very drunk."

"Y'r honor," responded the inebriated one, "I've been prac'sing here for fifteen years, un' that's the firsh c'rect decishun I ever heard in thish court."

It cost him something for contempt.

An intemperate barrister sums up five reasons why men drink:

> If on my theme I rightly think,
> There are five reasons why men drink:
> Good wine, a friend, because I'm dry,
> Or lest I should be by and by,
> Or any other reason why.

The inebriate who, on being reproached for not leading a regular life, denied the charge by saying "he returned home every night intoxicated," was scarcely so ingenious in his defence as the Scotsman in the following:

"Tipsy as usual, James. What in the world has set you on the spree now?"

"Ah, ye maunna be harsh, judge — did you not hear my grand whistling canary was dead?"

"Stupid fellow! leaving your work and getting drunk for the death of a bird. Don't you know a man should look upon such incidents as trifles?"

"So I do, judge, so I do, man; but if ye wanted a spree yerself, ye wad be glad of ony handle to turn the crane wi'."

Judge William C——, of a Western state, and Judge Caswell M——, of a Southern state, were both natives of Lexington, Kentucky. In boyhood they had jammed the same cat's head into the same milk pitcher, stolen peaches from the same tree, got trounced by the same farmers, were otherwise extremely intimate friends, afterwards chums at college, and then errand boys in the same office. Later in life they parted and rose to sublime honors in their separate places. One January, after years of separation, they met for the first time since their parting, in Lexington, and brewed a convivial bowl in honor of the event. About midnight, full of affection and enthusiasm, they retired in the same bed. It was a huge affair, standing in the middle of the room and capable of being drawn up by ropes to the ceiling while the room was being cleaned. It was a very cold night, and they placed their clothing upon the foot of the bed. Just after they fell asleep four friends entered softly, drew the bed by ropes nearly to the ceiling, and left them thus suspended about ten feet from the floor. They then locked the door outside and retired. At 3 A. M., Judge —— woke with that species of thirst which usually comes after Kentucky punch, and technically known as "hot coppers." Leaping lightly out of bed to get the ice pitcher, he went whirling down ten feet, alighting with

a soul-stirring thump on all fours. There was a long and painful pause. Then he peered upward through the darkness and called:

"Caswell!" (No reply.) "Oh, Caswell!" (Feeble cries.) "Caz!"

"Eh?—um?—what?" The judge was awakening.

"I've fallen through a trap," yelled the now affrighted judge; "get up and light a candle."

"Where are you?" queried Judge C——, sleepily, framing his opinion that his honorable brother was drunk.

"Down here. Fell through a trap. Don't get out on my side of the bed."

"All right."

And Judge M——, springing out on his own side, turned three somersaults and landed on the small of his back. Both were now convinced that they had fallen into a den of thieves and were possibly to be murdered. The jokers had closed the heavy wooden shutters, so no light could enter, and removed all the furniture. The judges groped around on hands and knees, nearly frozen to death, and only at daybreak discovered the bed, climbed into it, and got warm enough to talk the thing over.

The late Judge George G. Wright, of Iowa, though a deeply religious man, could tell an anecdote in an inimitable way. One of these anecdotes was concerning a Methodist preacher in Iowa, who quit the gospel, went back to the law and afterwards became a judge. One evening while the judge was walking along a street in Des Moines, a drunken man reeled up and, slapping him on the back, called out:

"Oh, jedge."

The judge stepped back and said somewhat brusquely,

but with the politeness which he had inherited from his clerical profession:

"I am not aware that I have the honor of your acquaintance, sir?"

Whereat the drunken man fell upon the judge's breast and began to sob aloud:

"Oh, jedge, don't you know me? Have you forgot me so soon? I am (hic, hic) one of your co-co-converts?"

Scene in Georgia court:

Magistrate (to prisoner): "I see you have a jug there; is that the whiskey that made you drunk?"

Prisoner: "Yes, your honor."

Magistrate: "Pass it up here; I'll sample it."

Tipstaff: "Pass the jug to his honor."

Magistrate (after a long pull): "The prisoner gets twelve months on the chain gang. Any man that would get drunk on good whiskey like that, and run the risk of losing the jug, is irresponsible, and should be taken care of."

Jackson, Andrew.— Jackson's first duel, of which he was ashamed and never used to speak, occurred at Jonesboro, Tennessee, in 1788, following a court trial in which he and Waitstill Avery attorney-general of North Carolina, were counsel. Jackson was then twenty-one years of age.

"It was Jackson's habit," says Mr. Samuel T. Pickard, in that prince of publications — *The Youth's Companion* — "to carry in his saddle-bags a copy of 'Bacon's Abridgment,' and to make frequent appeals to it in his cases. This precious book was always carefully done up in coarse brown paper, such as grocers used before the neat paper-bags of the present day were invented. The

unwrapping of this much-prized volume before a court was a very solemn function, as performed by Jackson.

"Avery, uncommonly fond of a joke, procured a piece of bacon, just the size of the book, and, while Jackson was addressing the court, slipped out the volume from its wrapping and substituted the bacon. While still addressing the court, Jackson raised the flap of his saddle-bags, drew out the brown paper package, carefully untied the string, unfolded the paper with the decorous gravity of a priest handling the holy things of the altar, and then, without looking at what he held in his hand, exclaimed triumphantly:

"'We will now see what Bacon says.'

"The court, bar, jury and spectators were convulsed with laughter before Jackson saw the trick that had been played on him. Of course he was furious. He snatched a pen, and on the blank leaf of a law-book wrote a peremptory challenge, which he delivered then and there. He asked for no apology—nothing but blood would do. He commanded Avery to select a friend and arrange for a meeting at once. Avery made no answer to this peremptory demand, thinking his peppery antagonist would laugh rather than fight, as he grew cooler. But he did not know the young man. Jackson grew hotter instead of cooler. Next morning he sent this note:

"'August 12, 1788.

"'*Sir:* When a man's feelings and character are injured, he ought to seek a speedy redress. You received a few lines from me yesterday, and undoubtedly you understand me. My character you have injured; and further, you have insulted me in the presence of the court and a large audience. I therefore call upon you as a gentleman to give me satisfaction for the same. And I further call upon you to give me an answer immediately without

tribunal at once. The General, after stating the details of the misdeed, observed:

"Jimmy, I have borne with you for years in spite of all complaints; but in this act you have gone beyond my power of endurance."

"And do you believe the story?" asked Jimmy.

"Certainly," answered the General; "I have just heard it from two Senators."

"Faith," replied Jimmy, "if I believed all that twenty Senators said about you, it's little I'd think you fit to be President."

"O, pshaw! Jimmy," concluded the President, "clear out and go on duty, but be more careful hereafter."

Jimmy remained with his kindhearted patron, not only to the close of his presidential term, but, accompanying him to the Hermitage, was with him to the day of his death.

When Mr. McLane was Secretary of State, a new minister arrived from Lisbon, and a day was appointed for him to be presented to President Jackson. The hour was set, and Mr. McLane expected the minister to be at the State Department, but the Portuguese had misunderstood Mr. McLane's French, and he proceeded alone to the White House. He rang the bell, and the door was opened by the Irish porter, Jimmy O'Neil.

"*Je suis venu voir Monsieur le President,*" said the minister.

"What the deuce does he mean?" muttered Jimmy. "He says President, though, and I suppose he wants to see the General."

"Oui, oui," said the Portuguese, bowing.

Jimmy ushered him into the green room, where the General was smoking his corn-cob pipe with great composure. The minister made his bow to the President, and

addressed him in French, of which the General did not understand a word.

"What does the fellow say, Jimmy?"

"De'il know, sir. I reckon he's a furriner."

"Try him in Irish, Jimmy," said Old Hickory.

Jimmy gave him a touch of the genuine Milesian, but the minister only shrugged his shoulders with the usual "*Plait il.*"

"Och!" exclaimed Jimmy, "He can't go the Irish, sir. He's French, to be sure."

"Send for the French cook and let him try if he can find out what the gentleman wants."

The cook was hurried from the kitchen, sleeves rolled up, apron on, and the carving knife in his hand. The minister seeing this formidable apparition, and doubting he was in the presence of the head of the nation, feared some treachery, and made for the door, before which Jimmy planted himself to keep him in. When the cook, by the General's order, asked who he was and what he wanted, and he gave a subdued answer, the President discovered his character. At this juncture Mr. McLane came in, and the minister was presented in due form.

When asked in his last illness by Dr. Edgar what he would have done had Calhoun and his followers persisted in their attempt at nullification, Jackson replied: "Hung them, sir, as high as Haman! They should have been a terror to traitors for all time, and posterity would have pronounced it the best act of my life." "As he said these words," says Parton, his biographer, "he half rose in bed, and all the old fire glowed in his eyes again."

Jackson, John J.—By dilatory movements of some of the lawyers in his district, the trial-list of Judge Jackson, of the United States District Court of West Virginia,

became so clogged with old cases that he announced his purpose to clear the docket of all its driftwood. The result was the exhibition of much humor.

In one case the judge asked a prominent attorney, "Whom do you represent?"

"I don't remember; somebody who wants to collect money, I am sure." Stricken from the docket.

In another proceeding he inquired, "Is there anything left in this case that the lawyers haven't got?"

"Yes, sir, there is; and they should be allowed a chance to get it." Stricken from the docket.

To another attorney he remarked, "You seem to have inherited this case."

"I am willing to renounce the inheritance," replied the counsel.

"He wants to escape the inheritance tax," said a brother attorney, in an undertone. Stricken from the docket.

Jeffrey, Francis.— One day Lord Cockburn went into the Second Division of the Court of Session, but came out again very hurriedly, meeting Lord Jeffrey at the door.

"Do you see any paleness about my face, Jeffrey?" asked Cockburn.

"No," replied Jeffrey. 'I hope you're well enough?"

"I don't know," said the other; "but I have just heard Bolus (Lord Chief Justice Boyle) say: 'I *for one* am of opinion that this case is founded on the fundamental basis of a quadrilateral contract, the four sides of which are agglutinated by adhesion!'"

"I think, Cockburn," said Jeffrey, "that you had better go home."

No one minds what Jeffrey says,—it is not more than a week ago that I heard him speak disrespectfully of the equator. —*Sydney Smith.*

Jeffreys, George.— Judge Jeffreys having been told that William of Orange would shortly land, and that the prince's manifesto was already written, some one inquired:

"Pray, my Lord Chief Justice, what do you think will be the heads of this manifesto?"

"*Mine* will be one," was the grim reply.

An amusing instance from the State Trials in Jeffreys' time shows the temper and rudeness of the bench. Jeffreys being Chief Justice, a stormy conversation took place between him and Mr. Ward (Lord Chief Baron in the reign of King William) during an action against an ex-sheriff for arresting the Lord Mayor. The case of Pilkington, convicted of a riot, was the occasion of the outbreak. Ward was coloring this transaction by calling it a matter of right and election.

"No, Mr. Ward," said Jeffreys, "that was not the question determined there."

"My lord, I humbly conceive the issue of that cause did determine the question."

"No, no! I tell you it was not the question."

"I must submit it to your lordship."

Finding that he had a tame counsel and a clear stage, the Chief Justice expressed his customary coarseness: "I perceive you do not understand the question that was then, nor the question that is now. You have made a long speech here, and nothing to the purpose. You do not understand what you are about. I tell you it was no such question. No; it was not the question. But the defendants there were tried for a notorious offence, and a disorderly tumultuous assembly. Do not make such excursions *ad captandum populum*, with your flourishes; I will none of your enamel, nor your garniture."

"Will your lordship please to hear me?"

"If you would speak to the purpose, come to the ques-

tion, man! I see you do not understand what you are about."

"My lord!"

"Nay, be as angry as you will, Mr. Ward."

Then a little hiss began.

"Who is that?" said Jeffreys. "I hope we are now past that time of day that humming and hissing shall be used in courts of justice; but I would fain know that fellow that dares to hum and hiss while I sit here; I assure him, be he who he will, I'll lay him by the heels and make an example of him. Indeed, I knew the time when causes were to be carried according as the mobile hissed or hummed, and I do not question that they have as good a will to it now."

The humming must have perplexed Jeffreys, because it was used as a mark of approbation in conventicles. But the hissing was clear enough, and the remembrance of the conventicle, in union with that noise, was too much for the irritable judge.

"Come, Mr. Ward," he continued, "let us have none of your fragrancies and fine rhetorical flowers, to take the people with."

He was, however, a sufferer from acute pain, which he strove to control by an outburst of impatience towards the first who fell in his way; but, in the midst, there was a layer of cunning, which he was ever ready to apply at any cost, so that he might remain master of the field. Whilst, then, he was blustering, and Ward civil, the learned Sir John Maynard arose with dignity, and stated calmly to the bench the state of the law upon the subject. That law Jeffreys adopted and made his own on the spot.

In badgering a witness with noisy derision, no barrister of his time could surpass Jeffreys; but on more than one

occasion he met his master in the witness whom he meant to brow-beat.

"You fellow in the leathern doublet," said Jeffreys to a countryman whom he was about to cross-examine, "pray what are you paid for swearing?"

"God bless you, sir, and make you an honest man," answered the witness, looking Jeffreys full in the face, and speaking with a voice of hearty good humor; "if you had no more for lying than I have for swearing, you would wear a leather doublet as well as I."

Jekyll, Joseph.— Jekyll was a celebrated lawyer and statesman in the reigns of Queen Anne and George I. In his will he left his fortune to pay off the national debt. When Lord Mansfield heard of this he said:

"Sir Joseph was a very good man and a very good lawyer, but his bequest was a very foolish one; he might as well have attempted to stop the water from flowing through the middle arch of Blackfriar's Bridge with his full-bottomed wig!"

One of Jekyll's bright sayings was: "The farther I go west, the more convinced I am that the wise men came from the east."

Of Lady Cork, the friend of Dr. Johnson and the *literati*, who wore an enormous plume at one of her receptions, Jekyll said she was "exactly a shuttlecock,— all Cork and feathers."

One day in his chambers, Jekyll, observing a squirrel playing tread-mill in a wire cylinder, exclaimed: "Ah, poor devil, he is going the home circuit!"

Johnson, Andrew.— Just after Johnson had vacated the presidential seat, the managers of the Simpson County

(Ky.) Agricultural and Mechanical Association decided that it would be a great advertisement to have the old gentleman attend the fair. "We don't care for him on Saturday," said the manager, "for on that day we shall have a pretty big crowd anyhow. Wednesday will be the day. I will write to the ex-President."

The following letter was sent to Mr. Johnson: "*Great Sir:* The people of the wonderful county of Simpson, feeling a great interest in one of America's most gifted sons, have decided to invite you to be present at our fair grounds on Wednesday, the 6th of October, where they wish to shake your hand. Please let me know by return mail."

He let them know by return mail. The old gentleman turned the letter over and wrote the following: "I am no menagerie. A. JOHNSON"

Judge, The Outside.— The good old judge who holds the judicial reins evenly — never becoming thirteenth in the jury-box nor counsel for either side — is gently described in "The Outside Judge:"

You may sing of the judge, Common Pleas judge,
  Or any judge that you please;
I go for the judge, the nice old judge,
  That knowingly takes his ease,
And looking wise from behind the bench,
  At the rate of six thousand a year,
Cares not a hair in his sound old head,
  Who goes to the front or rear.

Not his is the bone they are fighting for,
  And why should the judge sail in,
With nothing to gain, but a chance perhaps
  To lose in strife and chagrin.
There may be a few, perhaps, who fail
  To see it quite in this light;
But when the fur flies, I'd rather be
  The outside judge in the fight.

I know there are some — of judges I speak —
Who think it is quite the thing
To take the part of one in the fight,
And hop right into the ring;
But I care not a hair what any may say,
In regard to the wrong or the right,
My judgment goes as well as my rhyme,
For the judge that keeps out of the fight.

— *M. B.*

Jurors, Competency of.— The supreme court was in session in one of the lower counties of the circuit, and the district attorney, with the counsel for the defence, was engaged in the selection of a jury for the trial of a man charged with murder. As usual, in such cases, some difficulty was experienced, and the court was getting tired of the tedious proceedings.

"Call the next juror, Mr. Clerk," said the district attorney for the hundredth time.

The clerk called, and an old man, with an honest face and a suit of blue jean clothes, rose in his place, and the district attorney asked the following customary questions:

"Have you, from having seen the crime committed, or having heard any of the evidence delivered under oath, formed or expressed an opinion as to the guilt or innocence of the prisoner at the bar?"

"No, sir."

"Is there any bias or prejudice resting on your mind for or against the prisoner at the bar?"

"None, sir."

"Is your mind perfectly impartial between the state and the accused?"

"It is."

"Are you opposed to capital punishment?"

"I am not."

All the questions had been answered, and the court was

congratulating itself on having another juror, wnen the district attorney, in solemn tones, said:

"Juror, look upon the prisoner; prisoner, look upon the juror."

The old man adjusted his spectacles and peeringly gazed at the prisoner for full half a minute, when he turned his eyes toward the court and earnestly said:

"Judge, I'll be condemned if I don't believe he's guilty."

The court was considerably exasperated at having lost a juror, but the more humorously inclined had a good laugh at the old man's premature candor.

"Have you conscientious scruples against serving as a juror where the penalty is death?" said the attorney to a Boston talesman.

"I have."

"What is your objection?"

"I do not desire to die."

Questions alternately by the court, the state's attorney, and the defence, as answered by an *intelligent juror* in a Western murder case:

"Are you opposed to capital punishment?"

"Oh, yes — yes, sir."

"If you were on a jury, where a man was being tried for his life, you wouldn't agree to a verdict to hang him?"

"Yes, sir — yes, I would."

"Have you formed or expressed an opinion as to the guilt or innocence of the accused?"

"Yes, sir."

"Your mind, then, is made up?"

"Oh, no — no, it ain't."

"Have you any bias for or against the prisoner?"

"I think I have."

"Are you prejudiced?"

"Oh, no, not a bit."

"Have you ever heard of this case?"

"I think I have."

"Would you decide, if on the jury, according to the evidence or mere rumor?"

"Mere rumor."

"Perhaps you don't understand; would you decide according to evidence?"

"Evidence."

"If it was in your power to do so, would you change the law of capital punishment or let it stand?"

"Let it stand."

The Court: "Would you let it stand or change it?"

"Change it."

"Now, which would you do?"

"I don't know, sir."

"Are you a freeholder?"

"Yes, sir."

"Do you own a house and land, or rent?"

"Neither — I am a boarder."

"Have you formed an opinion?"

"No, sir."

"Have you expressed an opinion?"

"Think I have."

The Court: "Gentlemen, I think the juror is competent. It is very evident he has never formed or expressed an opinion on the subject."

Eminent Advocate (to possible juror): "Do you entertain any conscientious scruples against the infliction of capital punishment?"

Possible Juror (confidently): "John Smith, sixty-two years old last grass, thank ye."

Advocate (wrathfully): "I did not ask your name."

Possible Juror (cheerfully): "No, sir; hain't read nuthin' about the case."

Advocate (roaring): "Are you deaf or a fool?"

Possible Juror: "You'll haf to speak a little louder. I'm kinder hard of hearin'."

Advocate: "Accepted."

Jury, on the.—We look back with mingled mirth and indignation to the troubles of the jury appointed to try William Penn and his co-mate in adversity, William Mead.

This jury, having given a verdict which did not suit the judge, and refusing to alter it upon his direction, were shut up without fire or food, and left to reconsider the case. Brought before the court the following morning, they continued firm in their former decision, whereupon the Recorder, John Howell, having threatened to have them carted about the city, while the Lord Mayor expressed bloodthirsty desires regarding the noses and throats of the obstinate jurors, they were again confined until the following morning.

This treatment failed to induce them to alter their verdict, and the judge therefore, deeming stronger measures necessary, fined each of the jurymen forty marks, and sentenced them to be imprisoned until the fines were paid; while the prisoners, who had been found "not guilty," were also fined for contempt of court.

Both prisoners and jurymen were conveyed to Newgate. From this retreat the jurymen sued out a writ of *habeas corpus*, and the case being shortly afterwards tried before twelve judges in the superior court, it was ruled, after a solemn argument, that the refusal of the jury to reverse the verdict on the order of the judge was insufficient cause for fining and committing them to prison.

They were accordingly discharged and brought civil actions for damages, with, we hope, satisfactory results.

The confinement of a jury without food or light, as in the case just mentioned, was a common practice.

In a trial which took place during the reign of Elizabeth, the jury disagreed, and were accordingly shut up. They remained in their confinement so long, however, without coming to any definite conclusion, that strong suspicions were aroused in the breast of the judge, who ordered a search to be made. The court officials, carrying out this order, discovered that some of the jurymen had supplies of figs, and others apples.

It was not until the following day that the jury arrived at a verdict, and upon their appearance in court the discovery of the fruit was mentioned, and each juryman examined on oath. Several of them confessed to having regaled themselves with figs, and were accordingly fined five pounds each. The others admitted being in possession of apples, but declared they had not partaken of them.

Had either party to the suit supplied the jury with eatables, it would have rendered their verdict void, but in this case it was shown that the festivities in the jury-room had taken place at the expense of the jury themselves, and their decision was therefore allowed to have effect.

In a case tried in 1758, a court official, in accordance with the general usage, refused to allow the jury candles to throw light upon their deliberations. Lord Mansfield, however, having asked both parties to the suit if they objected to the jurymen having lights, and receiving answers in the negative, departed from the ancient custom.

In addressing the grand jury, the judge generally indulges in a long and careful speech, expository of their duties, together with a preliminary skirmish with the

salient points of the principal cases about to be tried. To Judge Foster belongs the honor of having given the shortest charge upon record.

The day was terribly hot, and the judge, taking his seat upon the bench, after carefully mopping his brow, turned to the jury and delivered the following oration:

"Gentlemen, the weather is extremely hot, I am very old, and you are very well acquainted with what is your duty. I have no doubt you will practice it."

It being the custom at that period for the jurymen to stand the whole time the judge was addressing them, we have no doubt that the jury in question were extremely pleased, if not enlightened. All jurors were not so lucky, especially those whose fate it was to be called upon to serve in the cases presided over by Lord Eskgrove.

While some judges did not always insist upon the due observance of this "standing" rule, Lord Eskgrove was remarkable for the fact that upon no occasion would he permit it to be disregarded. He was also remarkable for his tediousness, and certain speeches referred to by Lord Cockburn afford a contrast to the preceding. He says:

"Often have I gone back to the court at midnight and found him whom I had left mumbling hours before, still talking on to the smoky tallow candles in greasy tin candlesticks, and the poor desponding jurymen; while the other portion of his audience were asleep, the wagging of his lordship's nose and chin being the chief sign that he was still charging."

"An' how do yez loik bein' on th' jury, Patrick?"

"It's some-at confinin', Bridget."

"An' is it harrud work?"

"Well, it's aisy enough decidin' phich soid is roight phin only wan is Oirish; but it's harrud worruk decidin' phin both soids is Oirish."

An amusing scene occurred at one of the assizes between Baron Holland, presiding judge, and a farmer who had been summoned as a juryman. The farmer claimed exemption from the duties of a juror on the ground that he was deaf.

"Are you *very* deaf?" inquired his lordship, raising his voice, and addressing the farmer, who stood up at the time in the witness-box.

The farmer was silent.

"He does not hear your lordship," observed one of the officers of the court.

"Are you *very* deaf?" repeated the judge, shouting as loudly as his lungs would permit.

"*Werry*, please your lordship."

"Are you deaf in both ears?" asked the judge.

"Did your lordship speak?" inquired the farmer, looking at the judge with an irresistibly droll expression of countenance.

"I asked you whether you were deaf in both ears," replied his lordship, again speaking at the full stretch of his voice.

"I can hear a little with one ear, my lord, when I turns about the side of my head to the person speaking."

"Oh, in that case," said the judge, speaking in a very low tone of voice, "we must exempt you; for jurors must have two ears — one for the prosecutor, and the other for the prisoner. You may go."

The farmer nodded thanks to the court, and was in the act of descending from the witness-box, when his lordship observed, again speaking in a low tone of voice, "Oh, you hear that, do you?"

"Oh, yez, my lord, I hears *that*," answered the farmer, with infinite dryness of manner.

"With *both* ears, I dare say," added his lordship.

"Oh, yez, with both on 'em," replied the farmer, amidst deafening shouts of laughter, in which his lordship heartily joined.

At the conclusion of a nuisance case the judge, after a tedious charge, said to the jury:

"I hope you understand the various points I have submitted to you.

"Oh, yes," said the foreman, "we never knew what a nuisance was until we heard your honor's summing up."

One of the most sacred and cherished of English institutions is that of trial by jury, but in connection therewith many curious and amusing incidents can be recorded. Early in the present century an attorney who filled the high office of sheriff, and who was somewhat of a wit, brought together a petty jury of twelve of the fattest men he could find. When they came to the book to be sworn, it appeared that only nine jurors could sit comfortably in the box. The court was puzzled what to do; but after a good deal of laughing and not a little squeezing and protesting on the part of the twelve "good men and true," they managed to wedge themselves in. Literally they were a "packed jury."

The learned recorder who presided requested that there should be no more "fat panels" summoned to his court. The facetious high sheriff bowed acquiescence; but, determined to have his little joke, summoned on the next occasion twelve of the leanest and tallest men that the county could produce. The droll effect — there being room in the box for twelve more jurors of the same dimensions — moved the court to mirth, and it was some time before the administration of justice could be proceeded with.

At another time the same humorous official impaneled

a jury of barbers; but the crowning joke occurred at the summoning of his fourth and last jury. For that term of the court the high sheriff, not having the fear of the recorder before his eyes, actually brought together a squinting jury. When these twelve queer-looking jurors came to be sworn, the court could no longer maintain its gravity, and recorder, mayor, alderman and barristers gave themselves up to uncontrollable laughter.

Lord Hannen was known as a stern ruler of his court; no man dared take a liberty with him, and he was never known to be hoaxed but on one occasion. A juryman dressed in deep mourning, serious and downcast, stood up and claimed exemption from service on that day, as he was deeply interested in the funeral of a gentleman, at which it was his desire to be present.

"Oh, certainly," was the courteous reply of the judge, and the sad man went.

"My lord," interposed the clerk, as soon as the ex-juryman had gone, "do you know who that man is that you exempted?"

"No."

"He is an undertaker."

A judge, noted for his tendency to explain things to juries, expressed himself so forcibly in a case that he was surprised the jurors thought of leaving the box. They did leave, however, and were out for hours. Inquiring the trouble, he was told that one of the twelve was standing out against the eleven. He summoned the jury and rebuked the recalcitrant sharply.

"Your honor," said the juror, "may I say a word?"

"Yes, sir," said the indignant judge; "what have you to say?"

"Well, what I wanted to say is, I'm the only fellow that's on your side."

Jury System, Defects in the.—"Speakin' about the jury system," said old Uncle Huckleblossom, raising his voice above the sizzling of the tobacco spit on the glowing side of the grocery-store stove, "speakin' about the jury system, I reckon 't I know as much about the jury system as the next un."

"In the fall of ninety-seven," the old gentleman continued reminiscently, while the audience rendered him respectful attention, "I bort a cow o' neighbor Titus — you 'member her, Silas — brindle sort o' cow 'ith one horn kinder bent back'ards, like 'twas tryin' ter scratch 'tween her shoulders. I paid Titus part down, 'n fer balance I give 'im my note. Well, things kinder strung along and strung along, 'n bimeby Titus lowed ez how he reckoned 't mebbe I'd better be a payin' sumpthin' on the note. I stood him off 'n one sorter way 'n 'nother, ez you understand, 'n then the cow up 'n died — she'd been a measly thing f'm the start, anyhow, 'n I allus c'nsidered 't Titus cheated me in thet trade. So I warn't no ways anxious t' pay the note, 'n w'n Titus come a-sweatin' round, I jus' leaned back comf'table like 'n let 'im sweat. Then he up 'n sued me.

"Sued me!" the old man repeated, sweeping the company with a look of ineffable indignation: "*sued — me!*" "Well, I sez, 'f *thet's* his game, let 'im sue. Tell y'u w'at — I was *mad*. So Titus he hired a loryer 'n I hired un, too, 'n' the case come on. I was c'nsider'ble techy on the matter o' the jury. There they sot in ther' cheers, an' or'nary lookin' set o' men enough. Looked a little stoopid, p'r'aps, but mebbe thet was only 'cause they was thinkin'. But w'en my loryer got up 'n argyfied away at 'em — bless y'u, y'u never see sech a nintellergunt 'pearin' lot o' men. They jes' seemed t' glisten 'ith intellergunce. My loryer hed 'em wound 'n' wound aroun'

'is finger — I could see thet — 'n' I couldn't help smilin' all over inside, 'n' w'en I glanced aroun' at Titus — you never see sech a sick lookin' man ez Titus was! Jes' green 'ith sickness. W'en my loryer sot down I couldn't help pokin' 'im in the rib 'n' chucklin' a little over Titus. Only thing I was sorry for was 't the jury couldn't speak ther minds then 'n' there, 'n' not trouble t' be bored 'ith Titus's loryer.

"Well, up gits Titus's loryer after a spell, 'n' the way he walked inter me was scand'lous. Called me everything — the miser'ble, little, conceited, half-starved w'elp! 'F 't 'adn't ben f'r my being' sartin' of the jury, 'n' right there in court, too, I dunno but I'd a riz right up 'n' squat that miser'ble, little, low-down, sneakin', starvin' pettifogger thet didn't hev brains enough t' do nothin' more'n jus' call names.

"Bimeby I looked up 't the jury, but I could see the sneakin' little loryer warn't makin' no 'mpression on *them*. So I sut back in my cheer, 'n' let 'im soak. I didn't keer w'at he sed 'bout me. I reckon 't people around here know *me*.

"Then the jedge talked a bit — give 'em the lor'n' all thet, y' understand, 'n' then the jury went out. Bimeby they come ag'in, 'n' the foreman give in the verdict. 'N' who do y'u s'pose they found for — me or Titus?" the old man asked, gazing about on the listening group for a reply.

"For you, Uncle Huckleblossom, of course," piped a tenor-voiced man who sat on the cracker barrel.

The old gentleman withered the tenor-voiced man with a look.

"That's all a fool knows about sech matters, anyway," he testily snorted. "They found for Titus, 'n' I hed t' shoulder the costs inter the bargain. The jury system!

W'y, it's the worst 'n' most deceivin' thing about this whole gover'ment."

And then there was a long, long silence, which was broken only by the smell of a cow-hide boot that got too near the red-hot stove.

Kames, Lord.—"Tickle him yourself, Harry; you are as able to do it as I am," said Lord Kames, interrupting, amid general laughter, the beginning of Erskine's speech for one Tickle:

"Tickle, my client, the defendant, my lord."

Kames, when a circuit judge, was out walking in a Scotch town. He lost his way, and asked a man to help him out of the dilemma.

"That I will," answered the man, with much cordiality. "Does your lordship remember me? My name is John ——. I have had the honor to be before your lordship for stealing sheep."

"John, I remember you well. How is your wife? She had the honor to be before me, too, for receiving them, knowing they were stolen."

"At your lordship's service. We were very lucky, and got off for want of evidence, and are still going on in the butcher trade."

"Then," replied Kames, "we may have the honor of meeting again."

Kelley, William D.—A young woman, the daughter of an old Pennsylvanian who had been one of Judge Kelley's political lieutenants, applied to him for a position which he promised to secure for her the next day. On the following morning, when the young woman called on the judge, he had forgotten all about her case, but, upon being reminded, apologized profusely, and told her

to "call to-morrow." The judge kept this up for nearly a month, when the young woman lost her patience. On the occasion of her last visit, the judge, who was very absent-minded, did not catch her name as the servant announced her presence in the parlor, and, walking hurriedly into the room, shook hands with her and began the old formula:

"My dear young lady, I am very busy to-day; you will really have to call to-morrow."

"But, judge," she protested, "that is what you have told me for a month. I have come almost every day, and you have invariably told me to 'call to-morrow.'"

"I beg your pardon, I am sure," said the judge, with great suavity. "Call day after to-morrow."

Kenyon, Lord.—"Pray, my lord," asked a fashionable lady of Lord Kenyon, "what do you think my son had better do to succeed in the law?"

"Let him spend all his money, marry a rich wife and spend all hers, and when he hasn't a shilling in the world, let him attack the law."

Once, when sitting in the Rolls Court, indignant beyond measure at the conduct of one of the parties, Kenyon astonished his staid and prosaical audience by exclaiming:

"This is the last hair in the tail of procrastination."

Kenyon's penuriousness was proverbial and increased with advancing years. He ceased to invite even old friends to his table, and his household servants complained that they were required to put up with the same fare their master set for himself.

"In Lord Kenyon's house," a wit exclaimed, "all the year through it is Lent in the kitchen, and Passion Week in the parlor."

Another caustic critic remarked:

"In his lordship's kitchen the fire is dull, but the spits are always bright."

Whereupon Jekyll testily replied:

"Spits! In the name of common sense don't talk about his spits, for nothing turns upon them."

Keogh, William.—The late Justice Keogh, of Ireland, was afflicted with an unpleasant failing of memory. On the occasion of a "Bar dinner" at his house he went upstairs to dress, but did not reappear. The company sat patiently for some time, till at length—just as their hunger was getting the better of their manners, and an emissary was being despatched to hunt up the missing judge—his lordship appeared, and explained with many apologies that, imagining he was retiring for the night, he had undressed and got into bed. After an hour's sleep he awoke, when it suddenly struck him that he had not yet dined, on which he hurried down to his guests.

He once attended a representation of "Macbeth" in the Gaiety Theatre, Dublin. It will be remembered that the witches, in reply to the Thane's inquiry what they were doing, declared they were doing "A deed without a name." Catching the sound of the words, and no doubt imagining he was on the bench in the Four Courts, Keogh exclaimed, to the astonishment of the audience, "A deed without a name! Why, it's not worth sixpence!"

Keogh's absent-mindedness recalls a story related of Peter Burrowes, a celebrated Irish barrister. A friend calling upon Burrowes one morning in his dressing room, found him shaving himself with his face to the wall, and asked him why he chose so strange an attitude. The answer was, "To look in the glass." "Why, there is no

glass there," said the friend. "Bless you!" exclaimed Burrowes, "I did not notice that before." Then ringing the bell, he called the servant and questioned him respecting the looking-glass which had been hanging on the wall. "Oh, sir," said the servant, "it was broken six weeks ago."

Knott, J. Proctor.— Knott, attorney-general of Missouri, and later member of Congress from Kentucky, won national reputation as a humorist by several brilliant speeches in Congress — his one on "Duluth" being a gem. It was delivered in 1871, on a bill extending the time for the construction of a railroad from the St. Croix river to Duluth, Minnesota, and to Bayfield, Wisconsin,— the former grant of 1,418,451 acres of public lands to the construction company having lapsed by the failure to build the line within five years. The extension bill passed the Senate, but was defeated in the House, after the exposure of extravagant land grants already made, and after Knott had riddled and ridiculed the measure in the speech referred to:

"Mr. Speaker: If I could be actuated by any conceivable inducement to betray the sacred trust reposed in me by those to whose generous confidence I am indebted for the honor of a seat on this floor; if I could be influenced by any possible consideration to become instrumental in giving away, in violation of their known wishes, any portion of their interest in the public domain for the mere promotion of any railroad enterprise whatever, I should certainly feel a strong inclination to give this measure my most earnest and hearty support; for I am assured that its success would materially enhance the pecuniary prosperity of some of the most valued friends I have on earth; friends for whose accommodation I would be willing to

make almost any sacrifice not involving my personal honor or my fidelity as the trustee of an express trust. And that fact of itself would be sufficient to countervail almost any objection I might entertain to the passage of this bill not inspired by an imperative and inexorable sense of public duty.

"Now, sir, I have been satisfied for years that if there was any portion of the inhabited globe absolutely in a suffering condition for want of a railroad, it was these teeming pine barrens of the St. Croix. At what particular point on that noble stream such a road should be commenced I knew was immaterial, and so it seems to have been considered by the draughtsman of this bill. It might be up at the spring or down at the foot-log, or the water-gate, or the fish-dam, or anywhere along the bank, no matter where. But in what direction should it run, or where it should terminate, were always to my mind questions of the most painful perplexity. I could conceive of no place on 'God's green earth' in such straitened circumstances for railroad facilities as to be likely to desire or willing to accept such a connection. I knew that neither Bayfield nor Superior City would have it, for they both indignantly spurned the munificence of the government when coupled with such ignominious conditions, and let this very same land grant die on their hands years and years ago rather than submit to the degradation of a direct communication by railroad with the piney woods of the St. Croix; and I knew that what the enterprising inhabitants of those giant young cities would refuse to take would have few charms for others, whatever their necessities or cupidity might be.

"Hence, as I said, sir, I was utterly at a loss to determine where the terminus of this great and indispensable road should be, until I accidentally overheard some gen-

tleman the other day mention the name of 'Duluth.' Duluth! The word fell upon my ear with peculiar and indescribable charm, like the gentle murmur of a low fountain stealing forth in the midst of roses, or the soft, sweet accents of an angel's whisper, in the bright, joyous dream of sleeping innocence. Duluth! 'Twas the name for which my soul had panted for years, as the hart panteth for water-brooks. But where was Duluth? Never, in all my limited reading, had my vision been gladdened by seeing the celestial word in print. And I felt a profounder humiliation in my ignorance, that its dulcet syllable had never before ravished my delighted ear. I was certain the draughtsman of this bill had never heard of it, or it would have been designated as one of the termini of this road. I asked my friends about it, but they knew nothing of it. I rushed to the library and examined all the maps I could find. I discovered in one of them a delicate, hair-like line, diverging from the Mississippi near a place marked Prescott, which I supposed was intended to represent the river St. Croix, but I could nowhere find Duluth.

"Nevertheless, I was confident it existed somewhere, and that its discovery would constitute the crowning glory of the present century, if not of all modern times. I knew it was bound to exist in the very nature of things; that the symmetry and perfection of our planetary system would be incomplete without it; that the elements of material nature would long since have resolved themselves back into original chaos if there had been such a hiatus in creation as would have resulted from leaving out Duluth. In fact, sir, I was overwhelmed with the conviction that Duluth not only existed somewhere, but that wherever it was, it was a great and glorious place. I was convinced that the greatest calamity that ever befell the

benighted nations of the ancient world was in their having passed away without a knowledge of the actual existence of Duluth; that their fabled Atlantis, never seen save by the hallowed vision of inspired poesy, was, in fact, but another name for Duluth; that the golden orchard of the Hesperides was but a poetical synonym for the beer gardens in the vicinity of Duluth. I was certain that Herodotus had died a miserable death because in all his travels and with all his geographical research he had never heard of Duluth. I knew that if the immortal spirit of Homer could look down from another heaven than that created by his own celestial genius upon the long lines of pilgrims from every nation of the earth to the gushing fountain of poesy opened by the touch of his magic wand, if he could be permitted to behold the vast assemblage of grand and glorious productions of the lyric art called into being by his own inspired strains, he would weep tears of bitter anguish that instead of lavishing all the stories of his mighty genius upon the fall of Troy it had not been his more blessed lot to crystallize in deathless song the rising glories of Duluth. Yet, sir, had it not been for this map, kindly furnished me by the legislature of Minnesota, I might have gone down to my obscure and humble grave in an agony of despair, because I could nowhere find Duluth. Had such been my melancholy fate, I have no doubt that with the last feeble pulsation of my breaking heart, with the last faint exhalation of my fleeting breath, I should have whispered, 'Where is Duluth?'

"But, thanks to the beneficence of that band of ministering angels who have their bright abodes in the far-off capital of Minnesota, just as the agony of my anxiety was about to culminate in the frenzy of despair, this blessed map was placed in my hands; and as I unfolded it a resplendent scene of ineffable glory opened before me, such

as I imagine burst upon the enraptured vision of the wandering peri through the opening gates of paradise. There, there for the first time my enchanted eye rested upon the ravishing word 'Duluth.'

"This map, sir, is intended, as it appears from its title, to illustrate the position of Duluth in the United States, but if gentlemen will examine it, I think they will concur with me in the opinion that it is far too modest in its pretensions. It not only illustrates the position of Duluth in the United States, but exhibits its relations with all created things. It even goes further than this. It lifts the shadowy veil of futurity, and affords us a view of the golden prospects of Duluth far along the dim vista of ages yet to come.

"If gentlemen will examine it, they will find Duluth not only in the center of the map, but represented in the center of a series of concentric circles one hundred miles apart, and some of them as much as four thousand miles in diameter, embracing alike in their tremendous sweep the fragrant savannas of the sunlit south, and the eternal solitudes of snow that mantle the ice-bound north. How these circles were produced is perhaps one of those primordial mysteries that the most skillful paleologist will never be able to explain. But the fact is, sir, Duluth is pre-eminently a central place, for I am told by gentlemen who have been so reckless of their own personal safety as to venture away into those awful regions where Duluth is supposed to be, that it is so exactly in the center of the visible universe that the sky comes down at precisely the same distance all around it.

"I find by reference to this map that Duluth is situated somewhere near the western end of Lake Superior, but as there is no dot or other mark indicating its exact location, I am unable to say whether it is actually con-

fined to any particular spot, or whether 'it is just lying around there loose.' I really cannot tell whether it is one of those ethereal creations of intellectual frost-work, more intangible than the rose-tinted clouds of a summer sunset; one of those airy exhalations of the spectator's brain which I am told are ever flitting in the form of towns and cities along those lines of railroad built with government subsidies, luring the unwary settlers, as the mirage of the desert lures the famished traveler on, and ever on, until it fades away in the darkening horizon, or whether it is a real *bona fide*, substantial city, all 'staked off,' with the lots marked with their owner's name, like that proud commercial metropolis lately discovered on the desirable shores of San Domingo. But, however that may be, I am satisfied Duluth is there, or thereabouts; for I see it stated here on this map that it is exactly thirty-nine hundred and ninety miles from Liverpool, though I have no doubt, for the sake of convenience, it will be moved back ten miles, so as to make the distance an even four thousand.

"Then, sir, there is the climate of Duluth, unquestionably the most salubrious and delightful to be found anywhere on the Lord's earth. Now, I have always been under the impression, as I presume other gentlemen have, that in the region around Lake Superior it was cold enough for at least nine months in the year to freeze the smokestack off a locomotive. But I see it represented, on this map, that Duluth is situated exactly half way between the latitudes of Paris and Venice, so that gentlemen who have inhaled the exhilarating airs of the one or basked in the golden sunlight of the other must see at a glance that Duluth must be a place of untold delights, a terrestial paradise, fanned by the balmy zephyrs of an eternal spring, clothed in the gorgeous sheen of ever-

blooming flowers, and vocal with the silvery melody of nature's choicest songsters. In fact, sir, since I have seen this map, I have no doubt that Byron was vainly endeavoring to convey some faint conception of the delicious charms of Duluth when his poetic soul gushed forth in the rippling strains of that beautiful rhapsody:

"'Know ye the land of the cedar and vine,
Where the flowers ever blossom, the beams ever shine;
Where the light wings of Zephyr, oppressed with perfume,
Wax faint o'er the gardens of Gul in her bloom:
Where the citron and olive are fairest of fruit,
And the voice of the nightingale never is mute;
Where the tints of the earth and the hues of the sky,
In color though varied, in beauty may vie.'

"As to the commercial resources of Duluth, sir, they are simply illimitable and inexhaustible, as is shown by this map. I see it stated here that there is a vast scope of territory, embracing an area of over two million square miles, rich in every element of material wealth and commercial prosperity, all tributary to Duluth. Look at it, sir! Here are inexhaustible mines of gold, immeasurable veins of silver, impenetrable depths of boundless forest, vast coal-measures, wide, extended plains of richest pasturage, all — all embraced in the vast territory which must, in the very nature of things, empty the untold treasures of its commerce into the lap of Duluth.

"Sir, I might stand here for hours and hours and expatiate with rapture on the gorgeous prospects of Duluth, as depicted upon this map. But human life is too short, and the time of this House far too valuable, to allow me to linger longer upon the delightful theme. I think every gentleman on this floor is as well satisfied as I am that Duluth is destined to become the commercial metropolis of the universe, and that this road should be built at once. I am fully persuaded that no patriotic representative of

the American people who has a proper appreciation of the associated glories of Duluth and the St. Croix will hesitate a moment to say that every able-bodied female in the land, between the ages of eighteen and forty-five, who is in favor of 'women's rights,' should be drafted and set to work upon this great work without delay. Nevertheless, sir, it grieves my very soul to be compelled to say that I cannot vote for the grant of lands provided for in this bill.

"Ah, sir! you can have no conception of the poignancy of my anguish that I am deprived of that blessed privilege! There are two insuperable obstacles in the way. In the first place my constituents, for whom I am acting here, have no more interest in this road than they have in the great question of culinary taste, now perhaps agitating the public mind of Dominica, as to whether the illustrious commissioners who recently left this capital for that free and enlightened republic would be better fricasseed, boiled or roasted; and in the second place, these lands which I am asked to give away, alas, are not mine to bestow! My relation to them is simply that of trustee to an express trust. And shall I ever betray that trust? Never, sir! Rather perish Duluth! Perish the paragon of cities! Rather let the freezing cyclone of the bleak northwest bury it forever beneath the eddying sands of the raging St. Croix."

Knott and a distinguished professional gentleman of Danville, Kentucky, were discussing the claims of Sampson and Schley to the credit of smashing Cervera at Santiago. The professional gentleman took the ground that all the honor of that memorable conflict belonged to Admiral Sampson, and was inclined to ignore entirely Commodore Schley's part in the affair. Knott listened

until his companion had finished, and then, with that characteristic twinkle in his eye, said:

"My dear sir, it is exceedingly gratifying to me to hear you take the position you have in this matter. It is like a balm to my conscience and settles a point that has worried me many a day.

"I was walking through the woods with a boy friend of mine, when we saw a rabbit run into a sink-hole. We stood around the hole a while, when I told the boy to keep watch while I went to get some fire to smoke the rabbit out. When I returned the boy had the rabbit. I promptly took it away from him, claiming it belonged to me because I told him to catch him if he came out.

"That was over fifty years ago, and you are the first man who has ever agreed with me that the rabbit was mine. I feel now that I was right in taking it, and my conscience is at rest."

The gentleman looked solemn for a few moments, then smiled a feeble smile and changed the subject.

Law.— George Stevenson died in 1784. His definition of law, with its wealth of bright illustration, is a classic:

"Law is law — law is law; and as in such, and so forth, and hereby, and aforesaid, provided always, nevertheless, and notwithstanding. Law is like a country dance: people are led up and down in it till they are tired. Law is like a book of surgery: there are a great many desperate cases in it. It is also like physic: they that take least of it are best off. Law is like a homely gentlewoman: very well to follow. Law is also like a scolding wife: very bad when it follows us. Law is like a new fashion: people are bewitched to get into it; it is also like bad weather: most people are glad when they get out of it.

"We shall now mention a cause, called 'Bullum *versus*

Boatum:' it was a cause that came before me. The cause was as follows:

"There were two farmers: Farmer A. and Farmer B. Farmer A. was seized or possessed of a bull; Farmer B. was seized or possessed of a ferry-boat. Now, the owner of the ferry-boat, having made his boat fast to a post on shore, with a piece of hay, twisted rope-fashion, or, as we say, *vulgo vocato*, a hay-band, after he had made his boat fast to a post on shore, as it was very natural for a hungry man to do, he went up town to dinner. Farmer A.'s bull, as it was very natural for a hungry bull to do, came down town to look for a dinner; and, observing, discovering, seeing, and spying out some turnips in the bottom of the ferry-boat, the bull scrambled into the ferry-boat; he ate up the turnips, and, to make an end of his meal, fell to work upon the hay-band. The boat, being eaten from its moorings, floated down the river, with the bull in it; it struck against a rock, beat a hole in the bottom of the boat, and tossed the bull overboard; whereupon the owner of the bull brought his action against the boat for running away with the bull; the owner of the boat brought his action against the bull for running away with the boat; and thus notice of trial was given, Bullum *versus* Boatum, Boatum *versus* Bullum.

"Now, the counsel for the bull began with saying: 'My lord, and you gentlemen of the jury, we are counsel in this cause for the bull. We are indicted for running away with the boat. Now, my lord, we have heard of running horses, but never of running bulls before. Now, my lord, the bull could no more run away with the boat than a man in a coach may be said to run away with the horses; therefore, my lord, how can we punish what is not punishable? How can we eat what is not eatable? or how can we drink what is not drinkable? Or, as the

law says, how can we think on what is not thinkable? Therefore, my lord, as we are counsel in this cause for the bull, if the jury should bring the bull in guilty, the jury would be guilty of a bull.'

"The counsel for the boat observed that the bull should be nonsuited; because, in his declaration, he had not specified what color he was of; for thus wisely, and thus learnedly, spoke the counsel: 'My lord, if the bull was of no color, he must be of some color; and, if he was not of any color, what color could the bull be of?' I overruled this motion myself by observing the bull was a white bull, and that white is no color; besides, as I told my brethren, they should not trouble their heads to talk of color in the law, for the law can color anything. This cause being afterwards left to a reference, upon the award, both bull and boat were acquitted; it being proved that the tide of the river having carried both bull and boat away, both bull and boat had a good action against the water-bailiff.

"My opinion being taken, an action was issued, and, upon the traverse, this point of law arose: How, wherefore, and whether, why, when, and what, whatsoever, whereas, and whereby, as the boat was not a *compos mentis* evidence, how could an oath be administered? That point was soon settled by Boatum's attorney declaring that for his client he would swear anything.

"The water-bailiff's charter was then read, taken out of the original record, in true law Latin: which set forth, in their declaration, that they were carried away either by the tide of flood, or the tide of ebb. The charter of the water-bailiff was as follows: 'Aquæ bailiffi est magistratus in choisi super omnibus fishibus qui habuerunt finnos et scalos, claws, shells, et talos qui swimmare in freshibus vel saltibus riveris, lakis, pondis, canalibus, et well-boatis; sive oysteri, prawni, whitimi, shrimpi, tur-

butus solus;' that is, not turbots alone, but turbots and soles both together. But now comes the nicety of the law; the law is as nice as a new-laid egg, and not to be understood by addle-headed people. Bullum and Boatum mentioned both ebb and flood, to avoid quibbling; but it being proved that they were carried away neither by the tide of flood, nor by the tide of ebb, but exactly upon the top of high water, they were nonsuited; but such was the lenity of the court, upon their paying all costs, they were allowed to begin again *de novo*."

> But in these nice sharp quillets of the law,
> Good faith, I am no wiser than a daw.
>
> — *Shakespeare.*

> Once (says an author, where, I need not say)
> Two travelers found an oyster in their way;
> Both fierce, both hungry, the dispute grew strong,
> While, scale in hand, Dame Justice passed along.
> Before her each with clamor pleads the laws,
> Explains the matter, and would win the cause.
> Dame Justice, weighing long the doubtful right,
> Takes, opens, swallows it before their sight.
> The cause of strife removed so rarely well,
> "There, take," says Justice, "take ye each a shell;
> We thrive at Westminster on fools like you.
> 'Twas a fat oyster! Live in peace,— adieu."
>
> — *Pope.*

Laws are generally found to be nets of such texture as the little creep through, the great break through, and the middle sized are alone entangled in. — *Shenstone.*

We must not make a scarecrow of the law.

— *Shakespeare.*

Laws are the sovereigns of sovereigns.

— *Louis XIV.*

Self-defense is the clearest of all laws; and for this reason — the lawyers didn't make it.

— *Douglas Jerrold.*

Henry Fox, in a scathing arraignment of Lord Chancellor Hardwicke, who was charged with having no desire to reform the many abuses of his official office, exclaimed:

"Touch but a cobweb in Westminster Hall, and the old spider of the law is out upon you with all his vermin at his heels."

The Wilkes case, in 1770, brought out this famous observation by Chatham: "Unlimited power corrupts the possessor; and this I know, that where law ends, there tyranny begins."

John W. Smith, editor of *Leading Cases*, describes in a bright, crisp way the English criminal procedure under the old common law:

"The speedy arm of Justice was never known to fail;
The gaol supplied the gallows, the gallows thinned the gaol,
And sundry wise precautions the sages of the law
Discreetly framed whereby they aimed to keep the rogues in awe.
For lest some sturdy criminal false witnesses should bring,
His witnesses were not allowed to swear to anything.
And lest his wily advocate the court should overreach,
His advocate was not allowed the privilege of speech.
Yet such was the humanity and wisdom of the law,
That if in his indictment there appeared to be a flaw,
The court assigned him counsellors to argue on the doubt.
Provided he himself had first contrived to point it out.
Yet lest their mildness should, perchance, be craftily abused,
To show him the indictment they most sturdily refused.
But still, that he might understand the nature of the charge,
The same was in the Latin tongue read out to him at large.
'Twas thus the law kept rogues at awe, gave honest men protection,
And justly famed, by all was named, of wisdom the perfection."

The judge lays down the law. The lawyer takes it up and uses it.

Hints to the young lawyer:

Success at the bar goes up in an elevator. Failure slips a cog and drops in the well.

The young lawyer who says "he is going to get there and don't you forget it" makes more noise about it than the lawyer who is actually there.

Never exhibit a sordid activity of gain by putting too high a value upon your services. Three-fourths to seven-eighths of the amount in litigation is enough.

Be deferential to the court. Admit that it knows some law. Remember that it has spent years trying to know as much as you. Do not make it feel that you are trying to lift it to your level.

Be manly, open, fair in your methods. Trickery may win, occasionally, but truth will throw it three times out of four. Trickery lives in a bad conscience; truth, in the sunshine of an open heart.

The following tribute to the common law, drawn from the opinion of Judge Ross in *Snowden v. Warder*, 3 Rawle, 103, possesses that finest quality of wit — wisdom:

The common law is truly entitled to our highest veneration; and although it has been said by some to have been instituted by Brutus, the grandson of Æneas, and the first king of England, who died when Samuel was judge of Israel, and who wrote a book in the Greek tongue, which he called *The Laws of the Britons*, and which he had collected from the laws of the Trojans, it is nevertheless not entitled to our veneration on account of its antiquity; for nearly all that is valuable in it is comparatively of modern date. Neither is it entitled to our respect on account of the ancient, absurd, and superstitious modes of trial, none of which have the slightest resemblance to our present trial by jury. Still less does it deserve our admiration on account of the feudal system, which imposed a restraint upon every effort to improve the jurisprudence of the country, and which prevented the adoption of those

maxims of justice and equity which now render it the admiration of the enlightened jurist, and the favorite of the people. It is, however, entitled to our veneration, because it has, within the last two centuries, been molded by the wisdom of the ablest statesmen, and a succession of learned and liberal-minded judges, into a flexible system, expanding and contracting its provisions, so as to correspond to the changes that are continually taking place in society by the progress of luxury and refinement. As the youthful skin of a vigorous child expands with its growth, and accommodates itself to every development which the body, in its progress to maturity, makes of its powers, capacities and energies, so does the common law, in order to suit the exigencies of society, possess the power of altering, amending and regenerating itself. It has been truly and eloquently said that "it is the law of a free people, and has freedom for its end; and under it we live both free and happy. When we go forth, it walks silently and unobtrusively by our side, covering us with its invisible shield from violence and wrong. Beneath our own roof, or by our own fireside, it makes our home our castle. All ages, sexes, and conditions share in its protecting influence. It shadows with its wings the infant's cradle, and with its arm upholds the tottering steps of age." It is the duty of the judiciary not only to guard it with vigilance against incongruous innovations, but also to extend the operation of its principles so as to embrace all the new and various interests which arise among an active and enterprising people. Thus much for the common law.

Lawrence, William.— The story of the law citation made by Judge Lawrence, of Ohio, in the United States Supreme Court, is a good one. During the Garfield administration the eminent judge was Solicitor for the

Treasury Department, and his chief function was the decision of mooted points arising under the customs laws. The judge's rulings as to whether violins are household furniture and such tariff disputes were quite elaborate, and bristled with quotations from the entire realm of knowledge.

Naturally inclined to rely upon the conclusive wisdom of his own legal opinions, he had them collated and bound in five volumes of law sheep covers and labeled like the familiar reports of a high court. He did not even neglect having the word "Lawrence" emblazoned where usually the court reporter's name designates the series. Thus panoplied with legal lore, the judge one day confronted Chief Justice Waite and his bench of associates to argue a case on appeal. In the course of his remarks he laid down a principle as law which caused the Chief Justice to lean forward curiously.

"Why, Judge," said the great jurist, "where is your authority for that doctrine?"

"May it please the court, you will find that fully expounded in Lawrence I, 321–323," was the response.

"First Lawrence — Lawrence — why, Judge, I never heard of any such set of reports."

"Why, I beg pardon, but it is one of my own," stammered Ohio's great defender of the sheep, and the court was convulsed with merriment to the permissible limit.

This story recalls the one about Senator Stewart's quotations from "eminent authorities" during a discussion on the subject of finance. At the close of a lengthy extract, Senator Hoar inquired from what book the Senator from Nevada had been reading. "It is an analysis of the functions of money, by William M. Stewart, United States Senator," was the reply.

Lawyers.— The late John P. Kennedy, of the Baltimore bar, was a graceful, natural writer. His character sketch "Old Lawyers" is finely drawn:

I have a great reverence for the profession of the law and its votaries; but especially for that part of the tribe which comprehends the old and thorough-paced stagers of the bar. The feelings, habits, and associations of the bar in general have a very happy influence upon the character. It abounds with good fellows. And, take it altogether, there may be collected from it a greater mass of shrewd, observant, droll, playful and generous spirits than from any other equal members of society. They live in each other's presence like a set of players; congregate in courts like the former in the green room; and break their unpremeditated jests, in the interval of business, with that sort of undress freedom that contrasts amusingly with the solemn and even tragic seriousness with which they appear, in turn, upon the boards. They have one face for the public, rife with the saws and learned gravity of the profession, and another for themselves, replete with broad mirth, sprightly wit, and gay thoughtlessness. The intense mental toil and fatigue of business give them a peculiar relish for the enjoyment of their hours of relaxation, and, in the same degree, incapacitate them for that frugal attention to their private concerns which their limited means usually require. They have, in consequence, a prevailing air of unthriftiness in personal matters, which, however it may operate to the prejudice of the pocket of the individual, has a mellow and kindly effect upon his disposition.

In an old member of the profession — one who has grown grey in the service — there is a rich unction of originality that brings him out from the ranks of his fellowmen in strong relief. His habitual conversancy with the

world in its strangest varieties, and with the secret history of character, gives him a shrewd estimate of the human heart. He is quiet and unapt to be struck with wonder at any of the actions of men. There is a deep current of observation running calmly through his thoughts, and seldom gushing out in words; the confidence which has been placed in him, in the thousand relations of his profession, renders him constitutionally cautious. His acquaintance with the vicissitudes of fortune, as they have been exemplified in the lives of individuals, and with the severe afflictions that have "tried the reins" of many, known only to himself, makes him an indulgent and charitable apologist of the aberrations of others. He has an impregnable good humor, that never falls below the level of thoughtfulness into melancholy. He is a creature of habits; rising early for exercise; temperate from necessity, and studious against his will. His face is accustomed to take the ply of his pursuits with great facility, grave and even severe in business, and steadily rising into smiles at a pleasant conceit. He works hard when at his task; and goes at it with the reluctance of an old horse in a bark-mill. His common-places are quaint and professional: they are made up of law maxims, and first occur to him in Latin. He measures all the sciences out of his proper line of study (and with these he is but scantily acquainted) by the rules of law. He thinks a steam-engine should be worked with *due diligence*, and without *laches;* a thing little likely to happen he considers as *potentia remotissima;* and what is not yet in existence, or *in esse*, as he would say, is *in nubibus*. He apprehends that wit best that is connected with the affairs of the term; is particularly curious in his anecdotes of old lawyers, and inclined to be talkative concerning the amusing passages of his own professional life. He is, sometimes, not alto-

gether free of outward foppery; is apt to be an especially good liver, and he keeps the best company. His literature is not much diversified; and he prefers books that are bound in plain calf to those that are much gilded and lettered. He garners up his papers with a wonderful appearance of care; ties them in bundles with red tape; and usually has great difficulty to find them when he wants them. Too much particularity has perplexed him; and just so it is with his cases; they are well assorted, packed and hid away in his mind, but are not easily to be brought forth again without labor. This makes him something of a procrastinator, and rather to delight in new business than finish his old. He is, however, much beloved, and affectionately considered by the people.

Peter the Great, being at Westminster Hall in term time, and seeing multitudes of people swarming about the courts of law, inquired:

"Who are all those busy people?"

"Lawyers," was the reply.

"Lawyers! why, I have but four in my whole kingdom, and I design to hang two of them as soon as I get home."

The only case in which the attorneys had his Satanic majesty on the run is reported in the following verses:

The devil came up to the earth one day,
And into the court he wended his way,
Just as the attorney, with very grave face,
Was proceeding to argue the point in a case.

Now, a lawyer his majesty never had seen,
For to his dominions none ever had been,
And he felt very anxious the reason to know
Why none had been sent to the regions below.

'Twas the fault of his agents, his majesty thought,
That none of these lawyers had ever been caught,
And for his own pleasure he felt a desire,
To come to the earth and the reason inquire.

Well, the lawyer who rose, with a visage so grave,
Made out his opponent a consummate knave;
And Satan felt considerably amused
To hear the attorney so badly abused.

But soon as the speaker had come to a close,
The counsel opposing him fiercely arose,
And heaped such abuse on the head of the first,
That made him a villain of all men the worst.

Thus they quarreled, contended, and argued, so long,
'Twas hard to determine which of them was wrong,
And concluding he'd heard enough of the fuss,
Old Nick turned away, and soliloquized thus:

"They've puzzled the court with their villainous cavil,
And, I'm free to confess it, they've puzzled the Devil;
My agents were right to let lawyers alone,
If I had them they'd swindle me out of my throne."

In Grant's English *Bench and Bar* is the following bit of pleasantry descriptive of practitioners in the Law Courts half a century ago:

The Courts of Law, like the Houses of Parliament, are at Westminster. The only entrance is now at the east end of Westminster Hall, a place which, since its recent fitting up with so much taste, has become a favorite place of promenade for the gentlemen of the long robe. When I say "gentlemen of the long robe," I must restrict, in this instance, the application of the term to those who are well employed. They are glad to get out of court for a few moments, in order that they may enjoy a little exercise and breathe withal the fresh air, after some great forensic effort — great in regard to the time they have been on their legs, if not always in point of brilliancy of eloquence. You never see a briefless barrister walking for five minutes at a time in Westminster Hall; nor, I will answer for it, anywhere else when attired in his long robe. Though literally doing nothing, he wishes it to be

understood that he is so completely over head and ears in briefs and business that he has not a moment to spare in exercising his locomotive powers. The unpracticing *practitioners* in the courts are so busy in helping one another to do nothing that they will not venture out on any account to have a few moments' walk in Westminster Hall.

A countryman between two lawyers is like a fish between two cats. —*B. Franklin.*

Who Matches a Lawyer is an old English ballad:

"A lawyer, quite famous for making a bill,
And who in good living delighted,
To dinner one day with hearty good-will
Was by a rich merchant invited.
But he charged six and eight pence for going to dine,
Which the client he paid, though no ninny,
And in turn charged the lawyer the dinner and wine,
One a crown and the other a guinea.
But gossips, you know, have a saying in store,
He who matches a lawyer has only one more.

"The lawyer he paid it and took a receipt,
While the client stared at him with wonder.
With the produce he gave a magnificent treat,
But the lawyer soon made him knock under.
That his client sold wine, information he laid,
Without license, and spite of his storming,
The client a good thumping penalty paid,
And the lawyer got half for informing.
But gossips, you know, have a saying in store,
He who matches a lawyer has only one more."

Vagellius was a Roman lawyer, for revenue only. His character is finely versified in Garth's *Dispensary:*

"Since of each enterprise th' event's unknown,
We'll quit the sword, and hearken to the gown;
Nigh lives Vagellius, one reputed long,
For strength of lungs, and pliancy of tongue;

For fees to any form he moulds a case,
The worst has merits, and the best has flaw.
Five guineas make a criminal to-day,
And ten to-morrow wipe the stain away;
To law, then, friends, for 'tis by fate decreed,
Vagellius and our money shall succeed."

Lawyers, of whose art the basis
Is raising feuds and splitting cases.
—*Butler.*

Lawyers' robes are lined with the obstinacy of litigants.
—*Italian Proverb.*

The lawyer is a gentleman who rescues your estate from your enemies, and keeps it to himself.
—*Brougham.*

Every man should know something of law. If he knows enough to keep out of it, he is a pretty good lawyer. —*Josh Billings.*

Two lawyers, when a knotty case was o'er,
Shook hands, and were as friendly as before;
"Zounds!" said the client. "I would fain know how
You can be friends, who were such foes just now?"
"Thou fool!" said one, "We lawyers, though so keen,
Like shears, ne'er cut ourselves, but what's between."

An idle attorney besought a brother
For "something to read,—some novel or other,
That was really fresh and new."
"Take Chitty!" replies his legal friend;
"There isn't a book that I could lend,
That would prove more 'novel' to you!"
—*Saxe.*

Lee, George H.— A stone mason employed ex-Judge Lee, of the Virginia Supreme Bench of Appeals, to write a deed, and was greatly surprised that the price was five dollars. "What, Judge!" he exclaimed, "you surely don't mean to charge me five dollars for that little bit of scribbling, do you?"

"But, Jim," replied the judge, "you don't appear to understand. Remember I am not charging you for the writing merely — not for the mechanical execution,— but for the art of knowing *how* to do it, you see?"

This explanation was satisfactory to Jim, and the price was no longer disputed.

Sometime after this, the judge had occasion to have a couple of grates set in his residence, and Jim was selected to do the work. When it was finished, the judge inquired the price, and was promptly informed that it was five dollars.

"Five dollars? My goodness! Why, Jim, certainly not five dollars for only a few hours' work? Why, that's enough to —"

"But look here, Judge," interrupted Jim. "Remember, I am not charging you for the work merely — not for the mechanical execution,— but for the art of knowing *how* to do it, you see."

The joke was too highly appreciated by the judge to further dispute the bill, and he cheerfully paid it.

Legislation.— Lord Hermand, a Scotch judge, was very apt to say: "My laards, I feel my law *here*, my laards," striking his heart. Hence he made little ceremony in disdaining the authority of an act of parliament when he and it happened to differ. He once got rid of one by saying, in a contemptuous way, with an emphasis on every syllable:

"But then we're told that there's a statut' against all this. A statut'! What's a statut'? Words! mere words! And am I to be tied down by words? No, my laards; I go by the law of right reason."

An ordinance of the Council of Falaise provided that "No citizen shall go out at night without a lantern." A

supplement read, "No citizen shall go out at night without a candle in his lantern." The ordinance and supplement required a lantern with a candle in it, but made no provision for light. Hence it became necessary to pass another supplement, "No citizen shall go out at night without a lighted candle in his lantern."

A Virginia lawyer, objecting to an expression in a Pennsylvania statute "that the State House be surrounded by a brick wall and remain an open enclosure forever," Judge Brackenridge referred him to an act of Virginia entitled "A supplement to an act to amend an act making it penal to *alter* the mark of an unmarked hog."

An ingenious attorney drafted a bill introduced into the Nebraska legislature forbidding:

"The firing of any pistol, revolver, shot-gun, rifle, or any firearms whatsoever on any public road or highway, or within sixty yards of such public road or highway, except to destroy some wild, ferocious, or dangerous beast, or an officer in the discharge of his duty."

An early statute of the same state reads:

"For the violation of the third section of an act to license and regulate the sale of malt, spirituous and vinous liquors, $25; and on proof of the violation thereof, the justice shall render judgment for the whole amount of fine and costs, and be committed to the common jail until the same is paid."

Levy, Sampson.—Levy was a prominent figure at the Philadelphia bar. The Forum says of him that his off-hand speeches were perfect gems; they flashed, sparkled and coruscated in every direction. This led Judge Washington once to remark that Levy was the most trouble-

some speaker at the bar, as in beating every bush, in sporting phrase, he sometimes started game which he almost immediately left for the judge to hunt down. He seemed to be unconscious of his wit until he observed its sudden, explosive effect upon others.

After an able argument by Mr. Dallas, in a marine case, the judge inquired of Levy what answer he could give to it; to which he replied:

"Mr. Dallas is not familiar with maritime law, your honor, and he has made some egregious mistakes in his views of the case, which I should not like publicly to expose in a crowded court-house; but if my learned friend will allow me a moment's private interview, I will convince him of his error."

"You need not read the book you have cited," said Judge Barnes to Levy, "I know all about it."

"If," said Levy, closing the book, "you know all about it, now tell me, if you please, what it is, and what use I am about to make of it."

Upon an argument before the Supreme Court, Levy was citing a case from the Reports. Chief Justice Tilghman turned to him, in his usual mild way, and said:

"Mr. Levy, you are not reading the opinion of the court, but the argument of counsel."

"I know that," said Levy. "I read the argument of counsel because it is generally the best part of a case."

Liens.—The Court of Session was deliberating on a bill of suspension and interdict, relative to certain caravans with wild beasts on the old earthen mound of Edinburgh; and in the course of the proceedings Lord Bannatyne fell asleep. The case was disposed of and the next one called, which related to a right of *lien* over certain

goods. The learned lord, who continued dozing, having heard the word *lien* pronounced with a most emphatic Scotch accent by Lord Meadowbank, caused the following learned discussion:

Meadowbank (loq.): "I am very clear that there was a *lien* upon this property."

Bannatyne (dozing): "Certainly; but it ought to be chained, because —"

Balmuto: "My lord, it's no a livin' *lion* — it's the Latin word *lien*."

Hermand: "No, sir; the word is French."

Balmuto: "I thought it was Latin, for it's in italics."

Lincoln, Abraham.— Lincoln's name is a synonym of freedom wherever the flag floats and civilization runs.

The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.

— *First Inaugural Address.*

With malice towards none, with charity for all, with firmness in the right, as God gives us to see the right.

— *Second Inaugural Address.*

That this nation, under God, shall have a new birth of freedom, and that government of the people, by the people, for the people, shall not perish from the earth.

— *Address at Gettysburg.*

Stephen A. Douglas said in 1858, when he heard that Lincoln was to be his opponent for United States Senator in Illinois: "I shall have my hands full. He is the strong man of his party — full of wit, facts, dates, and

the best stump-speaker, with his droll ways and dry jokes, in the West. He is as honest as he is shrewd, and if I beat him my victory will be hardly won."

You can fool all the people some of the time; some of the people all the time; but you *can't* fool *all* the people *all* the time.

Hon. Richard W. Thompson, of Indiana, referring to Lincoln's keen love of the humorous, says:

"President Lincoln did not originate the best of his stories. He had a very receptive memory and stored away every anecdote he heard. His mind was such that he was able to use such things in the way of illustration. His favorite way of conveying an idea was by a story. For instance, take an incident which occurred one night when I was at the White House. I had been spending the evening there with Lincoln. We had chatted for an hour or so, when the clock struck half past ten. I then got up and said that I must go home. I told the President that he must be tired and that he ought to go to bed and get the rest which he needed to fortify him for the worries and troubles of the morrow.

"'No,' replied Lincoln, 'don't go yet. Stay a half hour longer. I have an appointment at eleven o'clock with a man from Boston who has a claim of something like $200,000 against the government. I have told him he could bring his papers here at eleven, and he will surely call on the minute.'

"'All right,' said I. 'I will stay.'

"Well, the man was announced as the clock struck eleven. As he came in, Lincoln took his papers and said: 'I can't look over this matter now, but if you will leave the papers I will attend to it as soon as I can find time.'

"There were a number of parties opposing the claim, and I could see that the man wanted to get some idea as

to what his chances were before he left. He volunteered a question, hoping to draw the President out. Lincoln appreciated his feeling and told the following:

"You make me think of a lawyer out in Illinois who wanted to turn merchant. He had not succeeded at the law, and he decided to close his office and open a store. He wrote to New York for a stock of goods and offered his fellow-attorneys as references. The wholesale house wrote to one of these as to the responsibility of the would-be storekeeper, whom we will call Tom Jones. The reply which was received was about as follows:

"'I think Tom Jones is good. I know he is rich. His assets, I should say, amount to at least $200,000. He has, in the first place, a wife, a beautiful, dark-haired brunette, who is worth to him or to any man $100,000. I am sure he would not sell her for that. I know I should not if she belonged to me. He has also two children, a boy and a girl. The boy is perfectly sound. He is eleven years old, and is brisk, energetic and smart. I don't think he could be bought at any price. I know Jones would not sell him for $50,000. I think that $49,950 would be a low estimate for the girl, as she has the making of a good woman in her. In addition to these items, Jones has a table in his office worth $2, two chairs worth fifty cents each, an inkstand worth fifteen cents, and a double-bladed Barlow knife, which I put at a dime, and besides, there is in his office a great big rat-hole, which is worth looking into." 'And so,' concluded the President, 'although I don't know much about your claim, I think there may be a great big rat-hole there which may be worth looking into, and I will look into it.' The man laughed and went away well pleased."

When Lincoln was practicing law in Illinois, he and the county judge, bantering each other about trading

horses, agreed to trade at nine o'clock the next morning — the horses to remain unseen to that hour. At the time appointed the judge appeared with the sorriest specimen of a horse ever seen in that region, and a little later, Lincoln, with a wooden saw-horse on his shoulder. Great was the laughter of the crowd, and still greater when Lincoln, surveying the judge's animal, exclaimed:

"Well, judge, this is the first time I ever got the worst of it in a horse trade."

"In the winter of 1859–60," says Judge Foster, "Lincoln visited Kansas, making speeches at Troy and Atchison. At Atchison he put up at the old Massasoit House, which every old-time politician will remember. General Stringfellow, John A. Martin, Tom Murphy and I called upon Lincoln at the hotel. In the course of the conversation Lincoln turned to Stringfellow, who was a pro-slavery advocate, and said:

"General Stringfellow, you pro-slavery fellows gave as one reason why slavery should be permitted in Kansas that only the negro could break up the tough prairie sod. Now I've broken hundreds of acres of prairie sod in my time, and the only question which remains to be decided is whether I am a white man or a negro."

General Stringfellow admitted the force of the argument, and congratulated Lincoln upon his pointed, logical way of putting things.

Speaking of Lincoln's numberless stories, the late Senator Voorhees, of Indiana, said:

"I recall one he told in the argument of a case. His legal opponent was a glib talker, but not deeply profound. Reckless and irresponsible in his addresses, he would say to a jury anything which happened to enter his head. Lincoln, in his address to the jury, referring to this, said:

"'My friend on the other side is all right, or would be

all right were it not for the peculiarity I am about to chronicle. His habit — of which you have witnessed a very painful specimen in his argument to you in this case — of reckless assertion and statements without grounds, need not be imputed to him as a moral fault or as telling of a moral blemish. He can't help it. For reasons which, gentlemen of the jury, you and I have not time to study here, as deplorable as they are surprising, the oratory of the gentleman completely suspends all action of his mind. The moment he begins to talk his mental operations cease. I never knew of but one thing which compared with my friend in this particular. That was a small steamboat. Back in the days when I performed my part as a keel boatman, I made the acquaintance of a trifling little steamboat, which used to bustle and puff and wheeze about in the Sangamon river. It had a five-foot boiler and a seven-foot whistle, and every time the whistle blew, the boat stopped.'"

There lived in Springfield in 1860 an Irish day-laborer, John McCarty, an intense Democrat. Shortly after the Presidential election, Lincoln was walking along the public square, and John was shoveling out the gutter. As the President-elect approached, McCarty rested on his shovel, and holding out his hand, said bluntly:

"An so yer elected Presidint, are ye? Faith an it wasn't by my vote, at all, at all!"

"Well, yes, John," replied Lincoln, shaking hands with John very cordially; "the papers say I'm elected; but it seems odd I should be when *you* opposed me."

"Well, Misther Lincoln," said John, dropping his voice lest some brother-Democrat should hear the confession, "I'm glad ye got it, after all. It's moighty little pace I've had wid Biddy for votin' forninst ye; an' if ye'd bin bate, she'd ha' driv me from the shanty, as shure's the worrold."

"Give my compliments to Biddy, John, and tell her I'll think seriously of women-suffrage," said Lincoln with a smile, as he passed on to his office.

When Lincoln used to be drifting around the country, practicing law in Fulton and Menard counties, Illinois, an old fellow met him going to Lewistown, riding a horse which, while it was a serviceable enough animal, was not of the kind to be truthfully called a fine saddler. It was a weather-beaten nag, patient and plodding, and it toiled along with Lincoln; and his books, tucked away in saddle-bags, lay heavy on the horse's flanks.

"Hello, Uncle Tommy," said Lincoln.

"Hello, Abe," responded Uncle Tommy, "I'm powerful glad to see ye, Abe, fer I'm gwyne to have sumthin' fer ye at Lewiston cote, I reckon."

"How's that, Uncle Tommy?"

"Well, Jim Adams, his land runs along o' mine, he's pesterin' me a heap, an' I got to git the law on Jim, I reckon."

"Uncle Tommy, you haven't had any fight with Jim, have you?"

"No."

"He's a fair to middling neighbor, isn't he?"

"Only tollable, Abe."

"He's been a neighbor of yours for a long time, hasn't he?"

"Nigh onto fifteen year."

"Part of the time you get along all right, don't you?"

"I reckon we do, Abe."

"Well, now, Uncle Tommy, you see this horse of mine? He isn't as good a horse as I could straddle, and I sometimes get out of patience with him, but I know his faults. He does fairly well as horses go, and it might take me a long time to get used to some other horse's faults. For

all horses have faults. You and Uncle Jimmy must put up with each other, as I and my horse do with one another."

"I reckon, Abe," said Uncle Tommy, as he bit off about four ounces of Missouri plug, "I reckon you're about right."

And Lincoln, with a smile on his gaunt face, rode on toward Lewiston.

When Lincoln first visited Gen. Grant's headquarters the driver of the mules was arguing with his team in that picturesque fashion which the army teamster thinks can best be understood by the mule. Lincoln's rebuke of the blasphemy, which he detested, was unique:

"My friend," said he, "are you an Episcopalian?"

"No, Mr. President, I am a Methodist."

"Oh," said Lincoln, "I thought you were an Episcopalian, because my Secretary of State, Mr. Seward, sometimes talks that way, and he is a warden in the Episcopal church in Auburn."

A high sense of honor marked Lincoln's career at the bar. An incident will illustrate. A stranger called to retain his services. "State your case," said Lincoln. The man did. Then Lincoln said:

"I cannot represent you, for you are wrong and the other party is right."

"That is none of your business if I employ you."

"None of my business! My business is never to defend wrong. I never take a case that is manifestly wrong."

"Well, but you can make trouble for the other fellow."

"Yes," said Lincoln, "I can set a whole community at loggerheads; I can make trouble for this widow and her fatherless children, and thereby get you six hundred dollars which rightfully belongs as much to the woman as it does to you. But I won't do it."

"Not if I pay you well?" slyly suggested the would-be client."

"Not for all the money you are worth."

Secretary Stanton was once greatly vexed because an army officer had refused to understand an order, or, at all events, had not obeyed.

"I believe I'll sit down," said Stanton to Lincoln, "and give that fellow a piece of my mind."

"Do so," said Lincoln; "write it now, while you have it in your mind. Make it sharp; cut him all up."

Stanton did not need a second invitation. It was a bone-crusher that he read to the President.

"That's right," said Lincoln; "that's a good one."

"Whom can I get to send it by?" mused the Secretary.

"Send it!" replied Lincoln; "send it! Why, don't send it at all. Tear it up. You have freed your mind on the subject, and that is all that is necessary. Tear it up. You never want to send such letters; I never do."

When congratulated by the National Union League upon his renomination to the Presidency, Lincoln replied:

"I have not permitted myself, gentlemen, to conclude that I am the best man in this country; but I am reminded in this connection of the story of an old Dutch farmer, who remarked to a companion that it was not best to swap horses when crossing a stream."

A gentleman asked him for a pass to Richmond. "Well," said the President, "I would be very happy to oblige, if my passes were respected; but the fact is, I have, within the past two years, given passes to two hundred and fifty thousand men to go to Richmond, and not one has got there yet."

In a case involving a bodily attack, Lincoln defended and told the jury that his client was in the fix of a man

who, in going along the highway with a pitchfork over his shoulder, was attacked by a fierce dog that ran at him from a farmer's door-yard. In parrying off the brute with the fork, its prongs stuck into him and killed him.

"What made you kill my dog?" said the farmer.

"What made him bite me?"

"But why did you not go after him with the other end of the pitchfork?"

"Why did he not come at me with his other end?" At this Lincoln whirled about in his long arms an imaginary dog and pushed his tail end towards the jury. This was the defensive plea of *son assault demesne*—loosely, that "The other fellow brought on the fight"—quickly told and in a way the dullest mind would grasp and retain.

Just before the fall of Vicksburg, a self-constituted committee urged Lincoln to remove General Grant from command, on the ground of alleged intemperate habits. After listening to them, the President brought the interview to a sudden close by asking them if they knew where the General bought his whiskey; "because, if I can find out, I will send every general in the field a barrel of it."

When sick with the varioloid, Lincoln told the doctor he was "glad that now he had something to give which the office-seekers did not want."

After the publication of Secretary Chase's able treasury report in 1863, a friend of the President went to him (Lincoln) with a suggestion that Mr. Chase should be looked after; he was using his power as Secretary of the Treasury to further his schemes for the Presidency. Lincoln laughed and brought out the inevitable story. An Illinois farmer, employing only one poor old horse, was plowing one day, while his son sat on the nearest fence. Suddenly the old horse pricked up his ears and started

briskly onward in the furrow, dragging the old man at the plowtail around the land. The lad, surveying the unusual sight, cried out:

"Say, dad, why don't you brush off that gadfly on old Dobbin's back?"

"I never saw Dobbin doing so well before. Let the gadfly be."

In February, 1865, Lincoln attended the Hampton Roads conference. When Mr. Hunter, the Confederate Secretary of State, referred to the correspondence between Charles I. and Parliament as a precedent for a negotiation between a constitutional ruler and rebels, Lincoln replied:

"Upon matters of history, I must refer you to Mr. Seward, for he is posted in such things, and I don't profess to be; but my only distinct recollection of the matter is, that Charles lost his head."

A delegation of preachers from Chicago once waited upon him to urge the issuance of the emancipation proclamation. The spokesman urged the claim with ecclesiastical dignity by saying:

"The Lord sends this commission to you, President Lincoln."

"Perhaps so; but isn't it strange that he should send His message by way of Chicago?"

To another delegation urging immediate action, he said:

"If you call the tail of a sheep a leg, how many legs will the sheep have?"

"Five," replied the spokesman.

"No," said the bothered President, "it would only have four. Calling the tail a leg wouldn't make it one."

After he had sent the name of the Rev. Shrigley to the Senate for confirmation as hospital chaplain in the

army, a self-constituted committee of the Young Men's Christian Association called on him to protest against the appointment. After Shrigley's name had been mentioned, the President said:

"Yes, I have sent it to the Senate. His testimonials are highly satisfactory and the appointment will no doubt be confirmed at an early day."

The young men replied:

"But, sir, we have come not to ask for the appointment, but to solicit you to withdraw the nomination, on the ground that Mr. Shrigley is not evangelical in his sentiments."

"Ah!" said the President, "that alters the case. On what point of doctrine is the gentleman unsound?"

"He does not believe in endless punishment," was the reply. "Yes," added another of the committee, "he believes that even the rebels themselves will finally be saved; and it will never do to have a man with such views hospital chaplain."

The President hesitated to reply for a moment, and then responded with an emphasis they will long remember:

"If that be so, gentleman, and there be any way under heaven whereby the rebels can be saved, then let the man be appointed."

He was appointed.

In his "Notes for a Law Lecture," written in 1850, Lincoln drops some words of wisdom good for all time:

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser — in fees, expenses and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man."

"Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more

nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife and put money in his pocket? A moral tone ought to be infused into the profession to drive such men out of it."

Lockwood, Frank.—The late Sir Frank Lockwood, one of the most brilliant advocates of the English bar, was famed alike for his witticisms and his professional acuteness. An instance of his ready wit came to hand during one of his autumnal visits to Scotland. It is a custom with Scottish territorial magnates to be known by the names of their estates. Thus Mr. and Mrs. Cameron, of Lochiel, the immediate predecessors of Mr. and Mrs. Lockwood at a social function, were announced as Lochiel and Mrs. Cameron. The wily Yorkshireman promptly gave in his own name and his wife's as 26 Lennox Garden and Mrs. Lockwood.

Lockwood, while attending a police court, noticed that the magistrates were performing their duties in a very expeditious manner, and he commented on the fact to a superintendent of police.

"Yes," answered the superintendent, who was pompous and none too well educated, "their worships always dispenses with justice very fast."

Lockwood was wont to relate with great relish an incident that happened while he was yet young as a lawyer. A barrister was conducting the prosecution of a man for stealing a tea-cup, and in the middle of his address to the jury a telegram was placed in his hand. Instantly the impetuous recipient, who had taken a five-shilling chance in the Bar "sweep," exclaimed joyously:

"Galopin's won—and I've won!"

His lordship, taken aback by this extraordinary proceeding, demanded to know the meaning of it. The barrister apologized for his conduct, and craved forgiveness.

"It is most improper," said his lordship, "and I trust it may never occur again."

The case was then about to be resumed, when the judge dryly intervened with —

"Oh, by-the-by, Mr. X., did the telegram say what was third?"

Touching a remark as to the extraordinary dullness of certain men who have occupied the judicial bench, Lockwood related an instance within his own experience: A man had stolen a spade, and was tried before a stupid but well-meaning and conscientious magistrate. He carefully looked up "Archbold's Criminal Law," to find a precedent on which he could convict and punish the man.

"I can't find anything under the word 'spade,'" said he, "although I see that a man was convicted and severely punished for stealing a shovel." Then looking at the culprit severely over his spectacles, he added, "You have had a very narrow escape, but you may go now."

The story of his first brief is related by Lockwood:

"It was to appear for a company before Lord Romilly, and the brief was marked two guineas and one guinea, the one guinea, of course, being for the consultation — figures that filled me with inexpressible delight. Well, the matter being more or less formal, and counsel on the other side having been heard, Lord Romilly asked me what I appeared for.

"'For the —— Company, my lord,' I promptly replied.

"'Yes, but what for?' Lord Romilly rejoined.

"Not knowing what he meant, and being full of my fee, I burst out, 'For two and one, my lord.'"

Logic.— A lawyer, who ought to have known better, once determined to indulge in a little litigation on his own behalf. He brought an action against another lawyer for having, with intent to injure him in his practice, said that he, "Peter Palmer, was a paltry lawyer, and had as much law as a jackanapes." It was maintained for the other side that the words were not slanderous. Had the defendant said "Mr. Palmer had *no more* law than a jackanapes," it would certainly have been actionable; but the words complained of were, "He had *as much* law as a jackanapes." This, with irresistible logic, was held to be no impeachment of the plaintiff's legal knowledge or ability; "for every man that has more than a jackanapes has as much."

London barrister to inhabitant of a small village in Scotland: "But surely you must find it very dull here, never getting any newspapers. How d'you know what's going on in London, for instance?"

"Eh, mon, but dinna ye ken that th' folk in London are just as ignorant o' what's gaun on wi' us?"

Ashley applies to Reed to become a law student in the latter's office, offering to pay him three hundred dollars when he gains his first law-suit. Reed accepts the offer and admits Ashley to the privileges of a student. Before the termination of Ashley's pupilage, Reed, tired of waiting for his money, determines to sue Ashley for the amount, reasoning thus: If I gain the case Ashley will be compelled to pay me by the decision of the court; if I lose it, he will have to pay me, by the terms of the contract, having won his first law-suit. But Ashley is not alarmed when he learns of Reed's intention to sue; for he reasons thus: If the decision of the court is in my favor, I shall not have to pay the money; if against me,

I shall not have to pay it, by the terms of the contract, as I shall not yet have gained my first law-suit.

Loomis, A. W.— Loomis, of Pittsburgh, ranked high among the best men of his time as a brilliant orator. His professional custom was never to bring suit until he had given the debtor notice and a reasonable time to pay. On one occasion, having notified a debtor, who shortly paid without suit, Loomis deducted five per cent. for his fee. His client remonstrating that the fee was too much when he had so little trouble, and plenty of attorneys would collect for two per cent., Loomis replied:

"Oh, yes, and so would I collect for two per cent.; but when I collect and *pay over the money* I charge five per cent."

MacNally, Leonard.— In Ireland, more than a century ago, the vade-mecum of justices of the peace, under which they dispensed justice indifferently — very indifferently — was Leonard MacNally's "Justice of the Peace in Ireland." As originally published, it was full of errors, and those who acted on it often found themselves drawn into law-suits, as defendants.

"What could make you act so?" MacNally would ask.

"Faith, sir, I acted on the advice of your own book!"

Not much taken aback, for such scenes were frequent, MacNally would say:

"As a human work, the book has errors, no doubt — but I shall correct them all *when it comes to a second edition.*"

MacNally was very short and nearly as broad as long. His legs were of unequal length, and he had a face which no washing could clean, and he wanted one thumb. He had good eyes and an expressive countenance. He was lame, also, which made Curran say, when he entered the

lawyers' corps, in 1798, that he ran a chance of being shot for disobedience of orders, because when the adjutant would cry "March," MacNally would certainly "*halt!*"

Attorney Parsons was lame—one leg being shorter than the other. Limping up to Curran, he inquired for a brother barrister who was similarly affected:

"Curran, did you see MacNally going this way?"

"Why," replied Curran, "I never saw him going any other way."

When MacNally walked rapidly, he would take two thumping steps with the short leg, to bring up the space made by the long one; and from this the bar nicknamed him "One *pound* two."

Mansfield, Lord.—It was said of Lord Mansfield that "his statement of the facts of a case was worth the argument of any other man." He was the greatest jurist of his time, and one of the wittiest.

An abstract from Mansfield's speech on the *Delays of Justice by the Privilege of Parliament* shows the spirit that animated his conduct in life:

"If the noble lord means by popularity that applause bestowed by after ages on good and virtuous actions, I have long been struggling in that race; to what purpose all-trying time can alone determine. But if the noble lord means the mushroom popularity that is raised without merit, and lost without a crime, he is much mistaken in his opinion. I defy the noble lord to point out a single action of my life where the popularity of the times ever had the smallest influence on my determinations. I thank God I have a more permanent and steady rule for my conduct—the dictates of my own breast. Those that have foregone that pleasing adviser, and given up the

mind to be the slave of every popular impulse, I sincerely pity. I pity them still more, if their vanity leads them to mistake the shouts of a mob for the trumpet of fame. Experience might have informed them that many who have been saluted with the huzzas of a crowd one day have received their execrations the next; and many who, by the popularity of their times, have been held up as spotless patriots, have nevertheless appeared upon the historian's page, when truth has triumphed over delusion, the assassins of liberty."

An old army officer had been appointed governor of a West India island. The most important duty which the governor had to perform was the administration of justice. In his ignorance he addressed Mansfield in a voice of great concern, saying that he knew nothing of law, and asking what he should do as the presiding officer of the court of chancery on the island.

"Decide promptly," said Mansfield, "but never give any reasons for your decisions. Your decisions may be right, but your reasons are sure to be wrong."

Sir Fletcher Norton was well known for his lack of *suaviter in modo*. Once when pleading before Mansfield on some question of manorial right, he had the misfortune to say:

"My lord, I can illustrate the point in an instant in my own person; I myself have two little manors—"

"We all *know it*, Sir Fletcher," the judge interposed with a smile.

A common sailor, testifying in an action growing out of a collision between two ships, said:

"At the time I was standing abaft the binnacle."

Whereupon Mansfield, desiring to master the facts of the case, observed:

"Stay a minute; you say that at the time in question you were *standing abaft the binnacle;* now tell me, where is abaft the binnacle?"

This was too much for the gravity of "the salt," who immediately before climbing into the witness-box had taken a copious draught of neat rum. Removing his eyes from the bench, and turning round upon the crowded court with an expression of intense amusement, he exclaimed at the top of his voice:

"He's a pretty fellow for a judge! Bless my jolly old eyes!—you have got a pretty sort of a land-lubber for a judge! He wants me to tell him where abaft the binnacle is!"

Not less amused than the witness, Mansfield rejoined:

"Well, my friend, you must fit me for my office by telling me where *abaft the binnacle* is; you've already shown me the meaning of *half seas over.*"

Mansfield, wishing to save a man who had stolen a watch, directed the jury to value it at *tenpence.*

"Tenpence, my lord," cried the prosecutor indignantly, "why, the very *fashion* of it cost me *five pounds!*"

"Oh," said the judge blandly, "but we must not hang a man for *fashion's* sake."

With a show of ill-humor, Mansfield revenged himself on Dr. Brocklesby, who, whilst standing in the witness-box of the court of King's Bench, incurred his lordship's displeasure by referring to their private intercourse. Some accounts say that the medical witness merely nodded to him, as he might have done with propriety had they been taking seats at a convivial table; other accounts, with less appearance of probability, maintain that, in a voice audible to the bar, he reminded his lordship of certain jolly hours which they had spent together during the

previous evening. Mansfield showed his resentment in his "summing-up," by thus addressing the jury:

"The next witness is one Rocklesby, or Brocklesby — Brocklesby or Rocklesby, I am not sure which; and first, *he swears that he is a physician.*"

A Jew was suing a Christian for debt before Mansfield. The defendant pleaded that the debt was really owing, but the Jew had no right by the laws of England to bring an action.

"Well," said Mansfield, "have you no other plea?"

"No, my lord; I insist upon this plea."

"Then you are the *greater Jew of the two.*"

A man who knows the world will not only make the most of everything he does know, but of many things he does not know, and will gain more credit by his adroit mode of hiding his ignorance than the pedant by his awkward attempt to exhibit his erudition. In Scotland, the "*jus et norma loquendi*" has made it the fashion to pronounce the law term curātor, curător. Lord Mansfield gravely corrected a certain Scotch barrister when in court, reprehending what appeared to English usage a false quantity, by repeating—"Curātor, sir, if you please."

The barrister immediately replied: "I am happy to be corrected by so great an orātor as your lordship."

While Mansfield was holding court on the circuit, a poor woman was indicted for witchcraft. The inhabitants of the place were exasperated against her. Some witnesses deposed that they had seen her walk in the air, with her feet upward and her head downward. Mansfield heard the evidence with great tranquillity, and perceiving the temper of the people, whom it would not have been prudent to irritate, he thus addressed them:

"I do not doubt that this woman has walked in the air

with her feet upward, since you have all seen it, but she has the honor to be born in England, as well as you and I, and consequently cannot be judged but by the laws of the country, nor punished but in proportion as she has violated them. Now, I know not one law which forbids walking in the air with feet upward. We have all a right to do it with impunity. I see no reason, therefore, for this prosecution, and this poor woman may return home when she pleases."

Her life was saved.

Sergeant Hill, of great ability in black-letter law, was a good mark for Mansfield. "I have seen the sergeant," says Hawkins, "standing up in the court, immovable as a statue, and looking at no object, and arguing in support of his client's case, so wrapt up in the workings of his own mind as, seemingly at least, to be insensible to any objects around him. In the midst of his argument, which was frequently so perplexed by parenthesis within parenthesis as to excite the laughter of the whole court, Mansfield would interrupt him with: 'Mr. Sergeant.'

"He was rather deaf; the words were repeated without effect. At length the counsel sitting near him would tell him that his lordship spoke to him. This roused him. Mansfield would then address him with:

"'The court hopes that your cold is better.'"

During a trial, Mansfield covered his retreat from an untenable position with a sparkling bit of pleasantry. An old witness named Elm having testified with remarkable clearness, although more than eighty years of age, Mansfield asked him as to his mode of living, and found that throughout life he had been an early riser, and a singularly temperate man:

"Ay," observed his lordship in a tone of approval; "I

have always found that, without temperance and early habits, longevity is never attained."

The elder brother of this model of temperance was the next witness called; and he almost surpassed the former in the clearness of his evidence.

"I suppose," observed Mansfield, "that you also are an early riser?"

"No, my lord; I like my bed at all hours, and specially I like it in the morning."

"Ah! but like your brother you are very temperate?" quickly asked the judge, looking out anxiously for the more important part of his theory.

"My lord," responded this ancient Elm, disdaining to plead guilty to the charge of habitual sobriety, "I am a very old man with a memory clear as a bell, but I can't remember the night when I went to bed without being more or less intoxicated."

Mansfield was silent.

"Ah! my lord," Mr. Dunning exclaimed, "this old man's case supports a theory upheld by many persons, that habitual intemperance is favorable to longevity."

"No, no," replied his lordship with a smile, "this old man and his brother merely teach us what every carpenter knows — that Elm, wet or dry, is a very tough wood."

Marshall, John.— Simplicity and gentleness were marked characteristics of Marshall, the great Chief Justice of the Supreme Court of the United States. "In wit a man, simplicity a child," beautifully expresses his whole life. His wit was wisdom, and his wisdom wit.

At the first meeting of the Supreme Court of the United States at Washington in February, 1801, Marshall sat as Chief Justice. "His appearance upon the bench," says Mr. Carson, "was an epoch in the history of the

constitution. The hours of provincialism were numbered. The glory and strength of the nation were to come, and the decisions of the great Chief Justice, in which he explained, defended and enforced the constitution, were to shed upon the ascending pathway of the republic the combined lustre of learning, intelligence and integrity. 'The Providence of God,' said Mr. Binney, 'is shown most beneficently to the world in raising up from time to time, and in crowning with length of days, men of pre-eminent goodness and wisdom.'"

Mr. Petigru says of him: "Though his authority as Chief Justice of the United States was protracted beyond the ordinary term of public life, no man dared to covet his place, or express a wish to see it filled by another. Even the spirit of party respected the unsullied purity of the judge, and the fame of the Chief Justice has justified the wisdom of the constitution, and reconciled the Jealousy of Freedom to the Independence of the Judiciary."

Marshall was appointed Chief Justice at the age of forty-five. His appearance at that date is described by William Wirt:

"The Chief Justice of the United States is in his person tall, meagre, emaciated; his muscles so relaxed as not only to disqualify him apparently for any vigorous exertion of body, but to destroy everything like harmony in his whole appearance and demeanor, dress, attitude, gesture; sitting, standing or walking he is far removed from the idolized graces of Lord Chesterfield as any other gentleman on earth. His head and face are small in proportion to his height; his complexion swarthy; the muscles of his face being relaxed, make him appear to be fifty years of age. His countenance has a faithful expression of good humor and hilarity, while his black eyes, that

On arriving at his dwelling, the young man inquired:

"What shall I pay you?"

"O, nothing," was the rejoinder; "you are welcome — it was on my way, and no trouble."

"Who was that polite old gentleman who brought home my turkey for me," inquired the other of a by-stander, as Marshall stepped away.

"That," replied he, "is John Marshall, Chief Justice of the United States."

The young man, astounded, exclaimed:

"Why did he bring home my turkey?"

"To give you a severe reprimand, and teach you to attend to your own business," was the answer.

John Randolph, differing from Marshall in political creed, unwittingly paid him a compliment when he heard some one criticising an opinion of the Chief Justice:

"Yes, sir," said Randolph, "it is all wrong; but then there is no man in the United States who can show wherein it is wrong."

Marshall noticed that his carriage horses were very thin, and he was advised by friends that his coachman sold their provender. Encountering this individual, he said to him: "John, my horses seem very thin and poor. How is this, John?"

"Well, old massa, I can't splain it; dey gits plenty to eat, I tell you, massa."

"Well, John, and here's Col. Picket's horses, they seem very fat."

"I gwine try and splain dat to you, massa. Dey's like dey massa and missus. D'ar Col. Picket, he's fat, and his wife she fat too, and so dey horses keeps fat, of course; and you know, old massa, you's po' and scrawny, and ol' missus, she's po' and scrawny, too, so in course yo' horses dey's po' and scrawny."

"Well, John," said Marshall, with a bland smile, "I never heard it explained in that way before. I must think over it."

And he yielded the field to John.

Marshall, Thomas F.— Marshall was one of the great leaders of the Kentucky bar — a noble, good-hearted fellow, brimful of sparkling humor that never failed to amuse even his political opponents.

When Marshall was delivering a political speech to a large audience in Buffalo, some one every few minutes shouted:

"Louder! louder!"

Marshall stood this for a while; but at last, turning gravely to the presiding officer, said:

"Mr. Chairman: At the last day, when the angel shall, with his golden trumpet, proclaim that 'time shall be no longer,' I doubt not, sir, that there will be in that vast crowd, as now, some drunken fool from Buffalo, shouting 'Louder! louder!'"

Marshall went on with his speech, but there were no more cries of "louder!"

At another meeting, Marshall had made but little progress before he was assailed with a torrent of abuse by an Irishman in the crowd. Not at all disconcerted, Tom sung at the top of his voice:

"Be jabbers, that's me fren' Pat Murphy, the man that spells God with a little 'g' and Murphy with a big 'M.'"

This floored Pat, amidst roars of laughter.

Marshall was once a candidate against General Pilcher. The General made a telling speech, replete with eloquence, and closed by telling his audience that he had been raised a plain country lad, and had never been to school more

than about three months in his life. Marshall arose, and, in a humorous way, remarked:

"My friend has told you that his school education was confined to the short period of three months' time; for myself I was much surprised to hear that the gentleman had ever been to school."

Marshall, Thomas M.—The death of Marshall, of Pennsylvania, in 1898, at the age of seventy-nine, was the passing away of a great figure at the bar and on the stump; but not a passing as in ordinary lives, for his memory lives with those who knew him, "sweet as the melody of far-away bells." The record of his life-work is indelibly stamped on the history of his state. He was one of the most gifted advocates and orators of his time, his wit, humor, wisdom and pathos swaying the reason and touching the heart.

Marshall possessed an eloquence of rare power. Pathos, as a friend has so well said of him, was his strong card. The picture of that tall, rugged old man, with his flowing gray hair and erect figure, the tears rolling down his cheeks, his voice quivering with emotion, and his hands stretched beseechingly toward the jury, is one that thousands of people recall. He could pull out the tremolo stop and throw the court room into a moist, gray atmosphere with less trouble and more fervor than any actor who treads the stage. Desolate homes, lonely children, weeping widows and heart-broken mothers could be conjured up by "Old Tom" with a sweep of that eloquent right arm. He could cloud up and rain with startling suddenness, and make other people do it too.

A fine description of Marshall's methods in attacking a jury by the rain route is given by Mr. Watson of the

Pittsburgh bar. His description will hold good for any of the many murder cases in which Marshall was engaged. His method was almost always the same. Always tears and pathos; always reaching the jury; never overdoing it.

"Marshall and I were on opposite sides of a case in which a boy named Luster was tried for murdering another boy at Becks Run. Marshall told the jury in the most pathetic and impressive manner about his own home life on Perrysville road, and about his own family. He described how he would go home after a hard day's work. His daughter would have his dressing gown and his boy would have his slippers. Presently his other two sons would come in, rosy and full of spirits, and the family would spend a happy evening together. Then he asked the jury if they wouldn't go home the same way, and to the same home comforts. He asked them if they loved their sons. He drew an eloquent picture of the strength of home ties. Then he said:

"'Gentlemen, this is probably the last time I will address a jury in Allegheny county.' (I believe it was, too.) 'I have lived the allotted span of three score years and ten. I am an old man and am nearing the evening of life. I am about to enjoy the leisure I think I have fairly earned.' He stopped. His lips twitched and the tears ran down his face. 'I want you men to let me take that boy home to his mother to-night,' he continued. And then he sat down.

"We were licked, of course. You couldn't have done a thing with that jury. I was beaten, but I am proud of it. He did take that boy home, too, and it wasn't twenty minutes afterward."

"Glorious Old Tom" he was called in his latter years; and as such he will always be remembered. One day a friend said to him: "Mr. Marshall, why do you allow peo-

ple to speak of you as 'Old Tom Marshall?' I wouldn't have it."

Mr. Marshall laughed in his hearty, characteristic manner and replied: "A man should never object to the truth. I am old. There's no question about that. I've been called Tom since I was able to walk. 'Old Thomas' wouldn't sound right; now, would it? Better let the name stand as it is."

"Aren't you afraid of being hauled up for contempt of court, Mr. Marshall," asked a friend one day, who heard him roar away at a well-known judge for taking exception to one of his statements to the jury.

"Contempt of court," said Marshall, with another explosion. "I'm not afraid of any court, sir."

Judge Stowe, before whom he tried many cases, says: "The secret of Marshall's success was getting to the level of the jury, gauging his men, and talking to them accordingly. If he had a jury of old staid Presbyterians, he quoted scripture by the yard. He was solemn and dignified. His long right arm would shake warningly before the railing as he delivered some Biblical quotation with impressiveness befitting a Covenanter minister. If he had a jury of workingmen he talked to them accordingly. They were 'honest sons of toil;' and he made them feel that he was a day-laborer himself. He tempered himself according to the temperament of the men before him. He could be grave and gay, wise and witty."

During the trial of a murder case, Marshall became excited at the court's ruling on a matter of evidence. The judge took offence:

"Be careful, Mr. Marshall," said he, "or you will be in contempt of court."

"I am, sir," retorted Marshall, with withering emphasis, "in the deepest contempt of court."

A man in the back part of the room snickered. "Bring that man here," demanded the judge sharply. He was fined ten dollars for contempt of court. Marshall went on with his examination of the witness with the placidness of a summer morning. After these little explosions he would always be the height of amiability — until the next decision disagreed with him.

Marshall was combative by nature, and nothing pleased him better than a good stiff brush with the attorney for the other side. During the progress of a case he had a habit of walking around the court room, with his head bent in thought. Once in a while such a fit of restlessness would strike him as would drive a nervous man almost frantic:

"Why don't you sit down, Mr. Marshall? You make me nervous!" exclaimed a nervous attorney in the criminal court one day.

"Can't help it," said Marshall. "I started to walk around a court room before you were born. I may or may not keep it up after you are dead, but I won't stop now."

Mason, Jeremiah.— Mason was a great man — in Webster's opinion the greatest of his time.

Mr. Curtis, in his "Life of Webster," says: "I well recollect a description Mr. Webster once gave me of a change which he said he deliberately made in his own style of speaking and writing. He observed that before he went to Portsmouth his style was florid,— he even used the word 'vicious,'— and that he was apt to make longer sentences and to use longer words than were needful. He soon began, however, to notice that Mr. Mason was, as he expressed it, 'a cause-getting' man. 'He had a

habit,' said Webster, 'of standing quite near to the jury, so near that he might have laid his finger on the foreman's nose; and then he talked to them in a plain conversational way, in short sentences, and using no word that was not level to the comprehension of the least educated man on the panel. This led me to examine my own style, and I set about reforming it altogether.'"

Judge Story, in the first edition of his *Commentaries on Equity Pleadings*, pays a fine tribute to Mason:

"I esteem it a great privilege to have the opportunity of dedicating this work to you. Few circumstances in my life could be more grateful than those which enable me to inscribe on the pages which contain my own imperfect judicial labors the memorials of my private friendships, as well as the avowals of my reverence for the great, the good, and the wise. Your own enviable distinction, so long held in the first rank of the profession, and supported by an ability and depth and variety of learning which have had few equals, and to which no one can bear a more prompt and willing testimony than myself, would alone entitle you to a far higher tribute than any I can bestow. I well know that I speak but the common voice of the profession on this subject; for they have well understood the vigor and the weight of that lucid argumentation which has spoken in language for the cause, and not merely for its ornament: *Neque id ipsum, tam leporis causa, quam ponderis.* But I confess myself more anxious to be allowed to consider this dedication as a tribute to your exalted private worth, spotless integrity, and inflexible public principles, as well as a free expression of my own gratitude for your uniform friendship; — a friendship which commenced with my first entrance among the Bar, in which you were then the acknowledged leader (a period when the value of

such unexpected kindness could not but be deeply felt and fully appreciated), and which has continued undiminished up to the present hour. Such reminiscences are to me more precious than any earthly honors. They fade not with the breath of popular applause; and they cheer those hours which, as age approaches, are naturally devoted to reflections upon the past for instruction as well as for consolation."

While Mason was trying a case, the judge interposed with a question to a witness. Mason promptly checked the reply, and, turning to the court, said:

"On which side does your honor put that question? If for the other side, we object to it as inadmissible; and if for us, we don't want it."

On being asked what he thought of a judicial appointment, he replied:

"He'll make a slow judge."

"Do you mean, Mr. Mason, that his mental processes are slow?"

"No, it's not that; but he'll have twice as much to do as most other judges. He'll have first to decide what's right, and then to decide whether he'll do it."

One of the brilliant lawyers of Mason's time was Ichabod Bartlett. It is said that after Bartlett had addressed the jury, Mason would put one foot on a chair, colloquially state the case, advert to Bartlett's address as *all very fine talk*, and then, stretching his wonderful form across the bar, would add: "But, gentlemen of the jury, what my brother Bartlett has told you is not law."

He was once engaged in a famous trial in which some good Methodist brethren were concerned. One morning, when the court opened, an over-zealous friend came to

him, and in a solemn whisper said: "Mr. Mason, I had a vision last night. Gabriel appeared to me and told me that brother A. was innocent. No mistake about it."

"Subpœna him as a witness at once," said Mason.

Rev. Avery, charged with murder, was defended by Mason in a masterly manner, resulting in an acquittal. Some time after the trial, a friend of Mason ventured to ask him if he thought Avery was innocent; to which Mason replied with a smile:

"Upon my word, I never thought of it in that light before."

Maule, George.—Nothing would restrain Justice Maule, if an out-of-the-way notion came into his head, especially if it was a satirical one. On a question of costs coming before him, he remarked:

"This seems to me quite a novel application. I am asked to declare what amounts to this: that, in an action by A. against B., C., who seems to have less to do with the case than even I have, ought to pay the costs. I do not believe any such absurd law has ever been laid down — although, it is true, I have not yet seen the last number of the Queen's Bench Reports."

A witness who had given his evidence in such a way as satisfied everybody in court that he was committing perjury, being cautioned by Maule, said at last:

"My lord, you may believe me or not, but I have stated not a word that is false, for I have been wedded to truth from my infancy."

"Yes," said Maule, "but the question is, how long have you been a widower?"

A sergeant opened a case very confusedly before Maule.

"I wish, sir," interrupted his honor, "you would put

your facts in some order; chronological order is the best; but I am not particular. Any order you like — alphabetical order."

"Nominal damages are in effect only *a peg to hang costs on.*" 2 D. & L. 635.

In his charge to the jury in a libel case, Maule, referring to a defendant who had exhibited a spiteful piety, said:

"One of these defendants is, it seems, a minister of religion; of *what* religion does not appear; but to judge by his conduct it cannot be any form of Christianity."

Maxims.— "*Admitting yourself out of court.*" A legal phrase signifying a liberality of concession to your opponent, by which you destroy your own cause. This excess of candor was well illustrated by the Irishman who boasted that he had often skated sixty miles a day.

"Sixty miles!" exclaimed a friend. "That is a great distance; it must have been accomplished when the days were longest."

"To be sure it was; I admit that!" cried the ingenious Hibernian.

"*A man of straw.*" Many years ago men could be easily found to give any evidence upon oath that might be required, and some of these persons walked openly in Westminster Hall with a straw in one of their shoes, to signify that they wanted employment as witnesses. Hence originated, "He is a man of straw." But the custom has high antiquity. A writer in the *Quarterly Review*, vol. XXXIII, p. 344, on Greek courts, says:

"We have all heard of a race of men who used in former days to ply about our own courts of law, and who, from their manner of making known their occupation,

were recognized by the name of straw shoes. An advocate or lawyer who wanted a convenient witness knew by these signs where to find one, and the colloquy between the parties was brief. 'Don't you remember?' said the advocate. The party looked at the fee and gave no sign, but the fee increased, and the powers of memory increased with it. 'To be sure I do.' 'Then come into court and swear it.' And straw shoes went into court and swore it. Athens abounded in straw shoes.

"Though a straw in the shoe has ceased to be the distinguishing mark, the records of many of our courts show that 'men of straw' still exist, and are easily found by those unprincipled enough to require their services. They are now, however, principally employed as bail, and 'straw' bail has become a familiar word in all our courts. Their false oath of the possession of property is often a ready means of snatching felons from the custody of the law."

"*A man's house is his castle.*" In the Third Institute, Coke says: "A man's house is his castle;" and in *Semayne's Case*, 5 Rep. 91: "The house of every one is to him as his castle and fortress, as well for his defence against injury and violence as for his repose."

A seedy Irishman was boasting of the baronial castle at his old home in Ireland:

"Yis," said a witty pettifogger, "it was a foine castle; you could stick your arm down the chimney and open the front dure."

Chatham made a splendid use of this maxim in a speech on the Excise Bill:

"The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail; it's roof may shake; the wind may blow through it; the storm

may enter; the rain may enter, but the King of England cannot enter! All his force dare not cross the threshold of the ruined tenement."

Grattan said of Burke: "He became at last such an enthusiastic admirer of kingly power that he could not have slept comfortably upon his pillow if he had not thought that the king had a right to carry it off from under his head."

"*A man who is his own lawyer hath a fool for a client.*" Mr. M—— brought suit against the South Carolina Railroad to recover damages for injuries to his property. Losing it in the Superior Court, he carried it to the Supreme Court, where he represented his own cause and began his argument by saying:

"May it please the court, there is an old French adage that 'A man who is his own lawyer hath a fool for a client.'"

The following week the Supreme Court pronounced its decision, adverse to M——, who, then absent in Augusta, was telegraphed by his friend, Judge McLaws, as follows:

"Judgment for defendant in error. French adage affirmed by Supreme Court."

"*A personal action dies with the person.*" This maxim is clear enough; and means that an action brought against a man, when he dies in the middle of it, cannot be continued. Thus, though the law sometimes, and very often, pursues a man to the grave, his rest there is not likely to be disturbed by the lawyers. If a soldier dies in action, the action does not necessarily cease, but is often continued with considerable vigor afterward.

"*Comparisons are odious.*" Judge to constable:

"What sort of a man was it committed the assault?"

"Your honor, he was a small, onsignificant crathur, about yer own size."

"*Coram non judice.*" Judge Lowry, of North Carolina, while at the bar, unexpectedly lost a case for a client who was a justice of the peace, and, in his own opinion, a very learned one. The judge was at a loss how to explain the cause satisfactorily to him when they met, but he did it as follows: "Squire, I could not explain it exactly to an ordinary man, but to an intelligent man like you, who is so well posted in law and law phrases, I need only say that the judge said that the case was *coram non judice.*" "Ah," said the client, looking very wise and drawing a long breath, "if things had got into that fix, Mr. Lowry, I think we did very well to get out of it as easy as we did."

"*Deceit and fraud shall be remedied on all occasions.*" It may be very true that deceit and fraud *ought* to be remedied, but whether they *are* is quite another question. It is much to be feared that in law, as well as in other matters, *ought* sometimes stands for nothing.

"*Error, unrepentant, must be destroyed.*" A Missouri judge begins a recent opinion: "'*Delenda est Carthago.*' Error, unrepentant, must be destroyed. Gentle reader, if you have ever chanced to wander through the wilderness of undigested volumes which Judge Leonard on one occasion said were not law books, but only Missouri Reports, you mayhap have encountered the case of *Hickman v. Green*, 123 Mo. 165. If not, it shall be my pleasing task now to unfold to you the prominent points and salient characteristics of that *cause celebre.*" 145 Mo. 300.

"*Fiat justitia, ruat coelum.*" Let justice be done, though the heavens fall. A maxim made famous by Lord

Mansfield, in his decision in the Wilkes case, in which Wilkes had been sentenced to outlawry without having been present in court. Mansfield asserted the constitutional right of an Englishman to a public trial in the presence of the accused, and in his opinion, reversing the sentence, said:

"The constitution does not allow reasons of state to influence our judgment. God forbid it should! We must not regard political consequences, however formidable they might be; if rebellion was the certain consequence, we are bound to say, '*Justitia fiat, ruat coelum.*'"

At a dinner given the judges, part of the ceiling came down, and Joseph Jekyll, the witty barrister, raised a laugh by saying:

"*Fiat justitia, ruat coelum.*"

"*Give the devil his due.*" This phrase was turned very wittily by a member of the bar in North Carolina on three of his legal brethren. During the trial, Hillman, Dews and Swain (the first named distinguished lawyers, the last also a distinguished lawyer and president of the university of that state) handed James Dodge, the clerk of the Supreme Court, the following epitaph:

Here lies James Dodge, who dodged all good,
And never dodged an evil;
And after dodging all he could,
He could not dodge the devil.

Mr. Dodge sent back to the gentlemen the annexed impromptu reply:

Here lies a Hillman and a Swain,
Their lot let no man choose;
They lived in sin and died in pain,
And the devil got his dues (Dews).

"*Hear both sides.*" It was before an Irish trial justice: The plaintiff's attorney had made an eloquent and log-

ical argument. Then the defendant's counsel took the floor.

"What are you doing," asked the justice, as the lawyer began.

"Going to present our side of the case."

"I don't want to hear both sides argued. It has a tindincy to confuse the coort."

An artful juryman, addressing the clerk of the court while the latter was administering the oath, said:

"Speak up; I cannot hear what you say."

"Stop," said Baron Alderson from the bench, "are you deaf?"

"Yes, my lord, in one ear."

"Then leave the box; it is necessary that jurymen should hear both sides."

But this would not apply to grand jurymen. They hear but one side.

Sydney Smith was a guest in a house where Lord Plunket, an eminent Irish judge, was expected. Before dinner a note arrived, saying that his lordship was unable to keep the appointment, a dog having rushed out of the crowd and bitten him in the leg. When the note was read aloud, Smith observed:

"I should like to hear the dog's account of the story."

There are two sides to every issue — the wrong side and our side.

In the case of a defendant who sought to escape liability for certain expenditure by throwing the blame of ordering it upon his wife, Justice Stephen, of England, characteristically blurted out:

"That is a very old excuse. I often felt that Adam — I mean — that is — well! I have always wished to hear Eve's account of that transaction."

"*Ignorance of the law excuses no one.*" Once when James T. Brady pleaded a client's ignorance of the law in extenuation of an offence he had committed, the judge said:

"Every man is presumed to know the law, Mr. Brady."

"I am aware of that, your honor. Every shoemaker, tailor, mechanic, and illiterate laborer is presumed to know the law; every man is presumed to know it except judges of the Supreme Court; and we have a court of appeals to correct their mistakes."

"The law, according to the well-known legal maxim," says the London Law Journal, "is a thing *quod quisque scire tenetur*. We may admit that the presumption of knowledge is somewhat strained in the case of laymen; but it is alarming to find an eminent queen's counsel, who has held high legal office, casting a doubt on her majesty's judges' knowledge of the law. 'The judges,' said Sir Henry James during the discussion on the fourth clause of the Home Rule bill, 'know the common law — more or less,' he added, after a pause, amidst the laughter of an irreverent House of Commons."

Justice: "You say you did not know that you were violating the law? Ah, but my dear sir, ignorance of the law is no excuse to any man."

Prisoner: "That's kind o' rough on both of us, ain't it, judge?"

Crier: "Order in the court."

"*It is better that ninety and nine guilty men should escape than that one innocent man should be punished.*" A lawyer once asked the late Judge Perkins, of Alabama, to charge the jury that "it is better that ninety and nine guilty men should escape than that one innocent man should be punished."

"Yes," said the witty judge, "I will give that charge; but, in the opinion of the court, the ninety and nine guilty men have already escaped in this county."

"*Let no innocent man escape.*" *State v. Lewis*, 19 Kan. 366, is a leading case on this maxim. The defendant, committed to jail for trial on a criminal charge, escaped before trial; and was subsequently arrested, tried and acquitted. This acquittal was held not to be a bar to an information for breaking jail and escaping from lawful custody. The Supreme Court reporter, in a *note* to the case, says:

The peculiar features of the case justify the insertion of the poetical report written by Eugene F. Ware, Esq., and published in the Fort Scott Daily Monitor. Mr. Ware's report is as follows:

IN THE SUPREME COURT, STATE OF KANSAS.

GEORGE LEWIS, Appellant, *ads.* THE STATE OF KANSAS, Appellee.

Appeal from Atchison County.

Syllabus:

Law—Paw; Guilt—Wilt. When upon thy frame the law—places its majestic paw—though in innocence or guilt—thou art then required to wilt.

Statement of Case by Reporter:

This defendant, while at large,
Was arrested on a charge
Of burglarious intent,
And direct to jail he went.
But he somehow felt misused,
And through prison walls he oozed,
And in some unheard-of shape
He effected his escape.

Mark you now; again the law
On defendant placed its paw,
Like a hand of iron mail,
And resocked him into jail—
Which said jail, while so corralled,
He by sockage-tenure held.

Then the court met, and they tried
Lewis up and down each side,
On the good old-fashioned plan;
But the jury cleared the man.

Now *you* think that this strange case
Ends at just about this place.
Nay, not so. Again the law
On defendant placed its paw —
This time takes him round the cape
For effecting an escape;
He, unable to give bail,
Goes reluctantly to jail.

Lewis, tried for this last act,
Makes a special plea of fact:
"Wrongly did they me arrest,
As my trial did attest,
And while rightfully at large,
Taken on a wrongful charge,
I took back from them what they
From me wrongly took away."

When this special plea was heard,
Thereupon The State demurred.

The defendant then was pained
When the court was heard to say,
In a cold, impassive way,
"The demurrer is sustained."

Back to jail did Lewis go,
But as liberty was dear,
He appeals, and now is here
To reverse the judge below.
The opinion will contain
All the statements that remain.

Argument, and Brief of Appellant:

As a matter, sir, of fact,
Who was injured by our act,
Any property or man?
Point it out, sir, if you can.

Can you seize us when at large
On a baseless, trumped-up charge;
And if we escape, then say
It is *crime* to get away,

When we rightfully regained
What was wrongfully obtained?
Please the court, sir, what is crime?
What is right, and what is wrong?
Is our freedom but a song,
Or the subject of a rhyme?

Argument, and Brief of Attorney for The State:

When The State, that is to say,
We, take liberty away;
When the padlock and the hasp
Leaves one helpless in our grasp,
It's unlawful then that he
Even *dreams* of liberty —
Wicked dreams that may in time
Grow and ripen into *crime* —
Crime of dark and damning shape;
Then, if he perchance escape,
Evermore remorse will roll
O'er his shattered, sin-sick soul.

Please the court, sir, how can we
Manage people who get free?

Reply of Appellant:

Please the court, sir, if it's *sin*,
Where does *turpitude* begin?

Opinion of the Court. Per Curiam:

We — don't — make — law. We are bound
To interpret it as found.

The defendant broke away;
When arrested he should stay.

This appeal can't be maintained,
For the record does not show
Error in the court below,
And we nothing can infer;
Let the judgment be sustained:
All the justices concur.

(*Note by the Reporter:*)

Of the sheriff, rise and sing,
"Glory to our earthly king!"

"*Marriage is made by consent.*" Scottish marriage law has figured prominently in literary fiction, for it lends itself admirably in the way of plots for romances. In a case recently heard in the Probate and Divorce Court, in which one of the phases of the Scottish marriage laws was a prominent factor, a barrister gave evidence and quoted some very remarkable and amusing verses, which form a poetical epitome of the law of Scotland on the subject. It is entitled "The Tourists' Matrimonal Guide Through Scotland," and there is a refrain after each verse, "Woo'd and married and a'":

"This maxim itself might content ye—
That marriage is made by consent,
Provided it's done *de præsenti*
And marriage is really what's meant.
Suppose that young Jockey and Jenny,
Say 'We two are husband and wife,'
The witnesses need't be many,
They're instantly buckled for life.

"Suppose the man only has spoken,
The woman just given a nod,
They're spliced by that very same token
Till one of them's under the sod.
Though words would be bolder and blunter,
The want of them isn't a flaw,
For *nutu signisque loquuntur*
Is good consistorial law."

The author was the late Lord Neaves, an eminent Scottish judge. Scottish judges are generally supposed to be dour folk, but there has always been a fine strain of humor among them, as countless stories testify.

"*Messis sequitur sementem.*" A late venerable practitioner, who wanted to write a book, and was recommended to try his hand at a translation of Latin law maxims as a thing much wanted, translated *messis sequi-*

tur sementem, with a fine simplicity, into "the harvest follows the seed-time;" and *actor sequitur forum rei* he made, "the agent must be in court when the case is going on."

"*One law for the rich, another for the poor.*" When Lord Ellenborough was trying one of the government cases against Horne Tooke, he found occasion to praise the impartial manner in which justice is administered.

"In England, Mr. Tooke, the law is open to all men, rich or poor."

"Yes, my lord," answered the prisoner, "and so is the London Tavern."

Justice Maule, in passing sentence on a prisoner convicted of bigamy, applies this maxim with a keen irony:

Clerk of Assize: What have you to say why judgment should not be passed upon you according to law?

Prisoner: Well, my lord, my wife took up with a hawker and ran away five years ago, and I have never seen her since, and I married this woman last winter.

Justice Maule: I will tell you what you ought to have done; and if you say you did not know, I must tell you that the law conclusively presumes that you did. You ought to have instructed your attorney to bring an action against the hawker for damages. That would have cost you about a hundred pounds. When you had recovered substantial damages against the hawker, you would have instructed your proctor to sue in the ecclesiastical courts for a divorce *a mensa et thoro*. That would have cost you two or three hundred pounds more. When you had obtained a divorce *a mensa et thoro*, you would have had to appear by counsel before the House of Lords for a divorce *a vinculo matrimonii*. The bill might have been opposed in all its stages in both Houses of Parliament; and, alto-

gether, you would have had to spend about a thousand or twelve hundred pounds. You will probably tell me that you never had a thousand farthings of your own in the world; but, prisoner, that makes no difference. Sitting here as a British judge, it is my duty to tell you that *this is not a country in which there is one law for the rich and another for the poor.*

"*Possession is nine points of the law.*" "You see, boss, dar's a nigger libin' up my way who orter be taken car' ob," said an old darkey to the judge at a police station.

"What's he been doing now?"

"Wall, sah, las' fall I lent him my ax, and when I wanted it back he braced right up an' tole me that possession was nine pints o' law, and refused to give it up."

"Yes."

"Well de odder day I sent de ole woman ober an' she borrowed his bucksaw, an' when Julius cum for it I tole him jist like he answered me, an' stood on my dignity."

"Well?"

"I had nine pints o' law, didn't I?"

"Yes."

"An' how many pints am de law composed of?"

"I don't know exactly."

"Well, dat's what bodders me, for dat nigger saw dem nine pints, shet up dis lef' eye for me, pitched de old woman over a bar'l, an' walked off wid his saw an' my snow-shovel to boot. If I had nine pints he mus' hev had over twenty, an' even den he didn't half let himself out."

"*The child is father of the man.*" If this be true, the maxim is likely to raise some knotty legal problems in the descent and distribution of estates. The child is father of the man. Hence the child would be paternal grandfather to the man's child. But the latter child,

being also father to the man, would be, therefore, his own paternal grandfather. Hence this latter child would have two paternal grandfathers, both children, of whom he himself was one. Now, this rule being universal, the other child would be likewise his own grandfather, and hence great-great-grandfather to the before-mentioned child. But these two children were each father to the man, a state of affairs which can be accounted for only on the ground that one of them was a stepfather. That is, they both married the same wife. It is presumable that the one who was great-great-grandfather of the other married her first, for if not, the other would have married one of his direct female ancestors before she was married. This borders on the improbable. It is, then, only left to assume that the child married his great-great-grandmother after the death of his great-great-grandfather. This brings us to a conclusion far more startling than that of Mr. Wordsworth, viz.: The child is step-great-great-grandfather to himself. So was it when the world began. If so, this is a convincing argument on the side of evolution.

"*The glorious uncertainty of the law.*" In 1756, soon after Lord Mansfield had overruled several ancient legal decisions and introduced many innovations in the practice, a barrister gave the famous toast, "The glorious uncertainty of the law."

The same thought occurs in Macklin's *Love a la Mode*. Act II:

"The law is a sort of hocus-pocus science, that smiles in yer face while it picks yer pocket; and the glorious uncertainty of it is of mair use to the professors than the justice of it."

"*The greater contains the less.*" Thus, if a man tenders more money than he ought to pay, he tenders what he

owes: for the greater contains the less; but a quart wine-bottle, which is greater than a pint and a half, does not always contain a pint and a half: so that, in this instance, the less is not contained in the greater.

"*The greater the truth, the greater the libel.*" Lord Mansfield's maxim is well illustrated in the following story:

"Jim Webster appeared before a Galveston justice of the peace, and expressed his ardent desire to sue old Uncle Mose for damages."

"What amount of damages have you sustained?" asked the justice.

"Dar is what I jess wanted to hold a caucus wid you about. I wanted to know, in de fust place, ef dat was a fac' dat de greater the troof de greater de libel, and de moah excessive de damages de injured party was entitled to?"

"Yes, I believe that is the law."

"Den in dat case old Mose has got to shell out foah million dollars before sundown, because, yer see, when he 'lowed I was de most reskelly niggah on Galveston Island, he was guilty of telling so much troof dat foah millions ain't half as big as de libel, and de damages is bound to correspond wid de injuriousness."

The matter was afterwards arranged without prejudice to the honor of either party, by old Mose shelling out four bits' worth of sweet potatoes and a fine gold chronometer that cost two dollars at auction.

"Old Mansfield, who writes like the Bible,
Says, 'The more 'tis a truth, sir, the more 'tis a libel.'"
—*Old Rhyme.*

Lord Campbell, in his "Life of Mansfield," reviewing the celebrated criminal libel trials of this time, says: "For half a century longer, the maxim prevailed, 'The greater

the truth, the greater the libel,' until the passage of Campbell's Libel Bill, 1843, permitting the truth to be given in evidence, and referring it to the jury to decide whether the defendant was actuated by malice or not."

"*The law compels no one to impossibilities.*" This is extremely considerate on the part of the law; but if it does not compel a man to impossibilities, it sometimes drives him to attempt them. The law, however, occasionally acts upon the principle of two negatives making an affirmative; thus treating two impossibilities as if they amounted to a possibility. As, when a man cannot pay a debt, law expenses are added, which he cannot pay either; but the latter being added to the former, it is presumed, perhaps, that the two negatives, or impossibilities, may constitute one affirmative or possibility, and the debtor is accordingly thrown into prison, if he fails to accomplish it.

"*Things of a higher nature determine things of a lower nature.*" Thus a written agreement determines one in words; although if the words are of a very high nature, they put an end to all kinds of agreement between the parties.

"*Turn about is fair play.*" A prominent judge of Massachusetts, having taken a train in Boston to return to his home in Quincy, discovered, after the train started, that it did not stop at his station. Accordingly, as the cars were approaching Quincy, he pulled the bell cord and the train came to a stand. The conductor rushed into the car:

"Who pulled that rope?"

"I did," replied the judge.

"What for?"

"Because I wanted to get off."

The conductor thereupon made some remarks to the judge more forcible and less respectful than he was accustomed to hear. The judge thereupon complained to the president of the road, who told him he would inquire into the matter.

When next they met, the judge asked the president if he had reprimanded the conductor for his insolence.

"I spoke to him," he replied.

"Well, what did he say?"

"He said he would come some day and adjourn your court."

The judge appreciated the man's way of saying that he had the right to control his own train, and did not pursue the matter further.

"*When I cannot talk sense, I talk metaphor.*" This was an expression of Curran's. Lord Kenyon must have been doing the same thing when he once addressed the bench: "Really, my lords, it strikes me that it would be a monstrous thing to say that a party can now come in, in the very teeth of an act of Parliament, and actually turn us round, under color of hanging us upon the foot of a contract made behind our backs."

Maynard, Sir John.— To the infamous Judge Jeffreys, who taunted him with having grown so old as to forget his law, Maynard replied:

"I have forgotten more law than you ever knew; but allow me to say, I have not forgotten much."

McCartney, William H.— General McCartney, of Pennsylvania, was a lawyer of fine ability, and a political speaker of the first magnitude. His humorous style appears in his response to the toast, "The Speakers in the Campaign," delivered at a Philadelphia banquet tendered

Col. M. S. Quay, chairman of the Republican State Committee, November 23, 1878:

Mr. Chairman and Gentlemen of the Club: I thank you for the privilege of participating in this expression of your appreciation of your distinguished guest. Some one — of a Keely Motor turn of mind — has declared that the true theory of politics is principles, not men. But you might as well say that the true theory of agriculture is land, not ploughs. Because you can't elect governors on principles alone — I refer particularly to governors from Luzerne county — without men to develop them, any more than potatoes dropped on the virgin hillsides can be made to pan out heavily in the fall of the year. And the campaign we have just concluded, more than any other I have ever known, called for a master mind to direct the development of true principles and the combating of the heresies of political lunatics. I confess, though, I had my doubts and my misgivings, when the chairman of the State Central Committee informed me that I was to instruct the intelligent public as to the finances of the country. (Laughter.) Because, up to that time, as a financier, I had not been a positive success. I had always managed to live within hailing distance of the almshouse, and I had only succeeded in proving my financial superiority over an occasional tailor. (Laughter.)

And the method your distinguished guest adopted with me proves his ability to manage crude materials.

"Go to Rouseville," said he; "open up on the Rousevillians, and let us see how they stand it." (Great laughter.)

Now, I am opposed to betting on principle — unless I have three of a kind, — but I am willing to wager $100,000 in gold coin there is not a man in this room who ever heard of Rouseville prior to the nomination of

Henry M. Hoyt. Why, I spent a week hunting for Rouseville, and I finally got as far west as Pittsburg, where Russell Errett introduced me to a sheriff who had sold out Rouseville two years before. And he told me he did not realize enough on his writs to meet the costs. Rouseville is an aggregation of oil pumps — and if pumps could have voted, what a majority Rouseville would have rolled up for the sweet child of the circus,—and each one of these pumps has a separate and distinct creak; for, while they are pumping for oil — and the motions of these pumps are well calculated to disturb the nerves of a man given to strong drink — they don't raise enough oil with which to grease their machinery. (Great laughter.)

The principal occupation of the Rousevillians is pulling each other out of holes in their sidewalks. (Applause and laughter.) Oh, it's a lively, cheerful town, Rouseville is. (Applause and laughter.) They postponed a funeral three days before I got there. They said they wanted to get up an entertainment for the speaker. (Roars of laughter and applause.) They told me — the Rousevillians did — that I was to treat in my remarks the living issues of the day. And the living issue that agitated what the average Rousevillian was pleased to call his mind, was a one-armed soldier who had been turned out of the postoffice for reaching too far with his remaining arm. (Great laughter.) I told them that the logical connection between the one-armed patriot and hard money was not visible to the naked eye of the casual observer, and I suggested they might average up things by cutting off an arm of the man who got into the one-armed patriot's place (laughter), a proposition the present incumbent did not seem to regard with favor. I then invited the entire Republican party of Rouseville

up to drink. It consisted of the postmaster and a man who wants to be sealer of weights and measures under Gen. Hoyt. I might remark in this connection there seem to be two classes of people in this state: those who want to be sealers of weights and measures and those who don't. The first class is rather the most numerous, and the second — well, the second is backing up the first. (Laughter and applause.) And then, following the example of my associates on the stump, I telegraphed to the papers that the speaker was an immense success.

McKinley, William.— President McKinley's delicate sense of humor reflects the kindness and generosity proverbial in his life.

Loyalty to the government is our national creed. We follow, all of us, one flag. It symbolizes our purposes and our aspirations; it represents what we believe and what we mean to maintain, and, wherever it floats, it is the flag of the free, the hope of the oppressed, and, wherever it is assailed, at any sacrifice it will be carried to a triumphant peace. — *Address at Cliff Haven, N. Y.*

One afternoon a young lawyer from New England called at the White House to pay his respects to President McKinley. The young man's father had known the President in earlier years, and had, in some way, been of service to him. As soon as he heard the family relationship of the caller the President invited him to stay to luncheon, and during the meal asked his guest what he was doing in Washington.

"Attending to some business in the Patent Office. I'm a patent lawyer."

"Doing well?"

"Fairly. But they're slow down at the Patent Office. It tries one's patience to get his business through."

The President was silent a moment, and then he asked the young lawyer to take a drive with him that afternoon.

"I don't see how I can," said the lawyer, "for it is absolutely necessary for me to be at the Patent Office a little after three o'clock."

"Well, I'll drive you down there."

When the carriage came up they drove down to the Patent Office, and when they had reached the door of that great department building, the President paused to chat a moment, and warmly shook the young man's hand before driving away. The remainder of the story can best be told by the young lawyer himself:

"You ought to have seen how easily things came for me that day. The officials couldn't do enough for me. They just broke their necks to serve me. Wherever I went every one seemed to know the President of the United States had driven me down there in his carriage. I really believe he did it on purpose."

Just after McKinley's election to the Presidency, an aged man, one of the oldest friends of the McKinleys, called at the Canton home.

"Why, how do you do, Uncle John?" cordially exclaimed the President-elect to the farmer.

The farmer's face flushed as he replied, "Neighbor, 'tain't all right to call you neighbor any more, and I want to know just how to speak to you. You used to be just Major McKinley, and then you was Lawyer McKinley, and then after a bit you was Congressman McKinley, and then you got to be Governor McKinley. Now you are elected President McKinley, but you ain't President yet."

McKinley laughed heartily at the perplexity of his constituent and answered:

"John, I won't have a friend of mine, such as you are,

address me by any prouder title than that of Major. That rank belongs to me. I am not Governor any more, and I am not President yet. So you just call me plain Major, which I like to be to all my friends."

Merritt, Thomas.—A group of well-known politicians were trying to solve the important question, who is the greatest lawyer in Illinois? No harmonious decision seemed possible until one of the disputants observed:

"Here comes Tom Merritt; he's the oracle—let's leave it to him. Tom, we want to know who is the greatest lawyer in Illinois?"

"D-o-d-do you leave it to me?" stuttered Merritt, with becoming gravity.

"Yes."

"Want me to d-d-cide it?"

"That's it."

"Wuh-wuh-well, then, I am."

There was a chorus of derisive guffaws, and some one remarked:

"You can't prove that, Tom."

"D-d-don't need to prove it; I adm-m-mit it."

Mirehouse, Sergeant.—Mr. Sergeant Robinson says that Mirehouse got through his cases with extraordinary rapidity, yet was a man of strict integrity, determined to do justice to all. "I have known Mirehouse," he says, "more than once sentence a man to seven years' transportation at the end of as many minutes from the commencement of the trial."

This was the common form with him. A prisoner might be indicted for stealing a purse from a woman in the street.

The Common Sergeant to the prosecutrix, after getting

her name and address: "Were you in such a street on such a day?"

"Yes, my lord."

"Had you a purse in your hand?"

"Yes, my lord."

"Policeman, produce the purse. Is that your purse?"

"Yes, my lord."

"Did you see the prisoner?"

"Yes, my lord."

"What did he do?"

"He snatched the purse from me and ran away."

Mirehouse to the prisoner: "Prisoner, do you wish to ask the witness anything?"

"No, my lord."

"Policeman, did you apprehend the prisoner?"

"Yes, my lord, and found this purse upon him."

"Did he say anything?"

"He said he picked it up in the street."

"Prisoner, do you wish to say anything to the jury?"

"No, my lord, except that what I told the policeman is true."

Mirehouse: "Well, gentlemen of the jury, if you believe the evidence, you will say that the prisoner is guilty. He says he picked up the purse in the street. I have walked the streets of London for many years now, and I have never been lucky enough to pick up a purse. Perhaps some of you have. Consider your verdict."

The verdict would be speedily given, and Mirehouse, without using a single superfluous word, would pass sentence and immediately proceed with the trial of another case.

Montague, Hill.— At the first annual banquet of the Commercial Law League of America in Detroit in 1895,

Mr. Montague, of Richmond, Va., responded eloquently to the toast, *The Lawyer of the South:*

It was in the early dawn of this century that the Southern lawyer became known as one of the strongest arms of our government. It was at the close of the last century, a little more than a hundred years ago, that a Southern lawyer in old St. John's Church, Richmond, stood up and said in that tempestuous crowd, "Give me liberty or give me death." I am afraid some of you will echo that sentiment here before long. It was a Southern lawyer who penned the Bill of Rights, that wonderful instrument that guarantees to us freedom of conscience, of speech and of the press. It was a Southern lawyer who penned that remarkable document, the Declaration of Independence. It would take too long to run along this list, but we might mention the names of Patrick Henry, of Madison, of Monroe, and of Sargent S. Prentiss, men who have honored the Southern land, but no less honored our whole united Union. And what shall I say of the lawyers of to-day? In order to tell you of the lawyers of to-day I must needs take you back in your thoughts a little more than thirty years ago, when the strong tide of war burst over the Southland, and for four long years this country knew a civil strife unequaled in the annals of history. But the Southern lawyers went out into our battlefields, many of them spilt their life's blood there in defence of what they believed to be right, but on that memorable day at Appomattox they yielded up the sword to the valorous Grant, the man who received it with so much magnanimity from our honored Lee. (Applause.) After they had silently stacked their arms they took down their musty books and started again the practice of law. And to-day we have men there who are honoring their profession. Men who, while they have the warm blood of the South, yet are more progress-

ive, more industrious, and more in keeping with the forward march of the times. We might mention to you the men of to-day, among them William L. Wilson, John W. Daniel, Speaker Crisp, Senator Morgan, and others equally great. But we must pass on. Among the distinguished law writers of the South of the present day, and of the days that are past and gone, your minds will recall readily Judah P. Benjamin, the man who has given us the foremost work on jurisprudence; and then John D. Miner, of my own state, who has furnished us with his "Institutes;" and J. W. Daniel, whose "Negotiable Instruments" are accepted as authority in every state in this Union. And now let me say — I have only spoken seven minutes; I always close on time — let me say that this is not the time nor the place to make long speeches at this late hour, but it has done my heart good to come here from the South and to tell you that out of the ashes of the Old South there has arisen a New South and loyal to the new Union, and to-day we can shake hands and march on to victory and to success, and woe be to the outsider who comes against us. (Applause.) Let me say, Mr. Toastmaster and ladies and gentlemen, in bidding you adieu, that I trust from the bottom of my heart that each lawyer here present may so practice his profession through honesty, integrity and industry as to be able to chisel out of the rough-hewn rocks of life a valuable and successful career. (Applause.)

Morris, Lord.— The brogue of the south and west of Ireland is softer and more musical than the brogue of the north, which has about it some of the flavor of the Scottish accent. When Lord Morris was Chief Justice of Ireland, a young junior barrister rose in his court one day to make his motion, and spoke in the hard brogue of the north of Ireland.

"Sapel," said the judge in a low voice to the registrar of the court, "who is this newcomer?"

"His name is Clements, my lord."

"What part of the coonthry does he hail from, in the name of all that's wundherful?" asked the judge.

"County Antrim, my lord."

"Well, well," said the judge, "did you iver come across sich a froightful accint in the whole coorse av yer born loife?"

Mortgage.— A Swede came into a lawyer's office and asked:

"Is hare ben a lawyer's place?"

"Yes, I am a lawyer."

"Well, Maister Lawyer, I tank I skall have a paper made."

"What kind of a paper do you want?"

"Well, I tank I skall have a mortgage. You see, I buy me a piece of land from Nels Petersen, and I want a mortgage on it?"

"Oh, no. You don't want a mortgage; what you want is a deed."

"No, maister; I tank I want mortgage. You see, I buy me two pieces of land before, and I got deed for dem, and 'nother faller come along with mortgage and take the land; so I tank I better get mortgage this time."

Motions.— The following scene in an English court is reported:

"Divisional Court.— Coram Kelly (L. C. B.) and Mellor (J.). Eleven A. M.— At the conclusion of the *ex parte* motions.

Mr. A.: Might I mention to your lordship a case of *Snooks v. Jones*, which stands fifth on your lordship's

list? (The learned gentleman was here interrupted by another learned counsel, who made some communication to him.) I beg your lordship's pardon; I find that it is now useless to apply to your lordship. (Prepares to sit down.)

The L. C. B.: What is the name of your case, Mr. A.?

Mr. A.: My lord, the case is that of *Snooks v. Jones*, but—

Mr. J. Mellor: Snooks against what?

Mr. A.: Jones, my lord.

The L. C. B.: How do you spell it?

Mr. A.: J-o-n-e-s, my lord. But as I said before—

The L. C. B.: One moment, pray. (Writes down the name.) Now, will you have the goodness to tell us what the case is — what question is raised for the decision of this court, and in what form?

Mr. A.: My lord, I was just about to tell your lordship—

The L. C. B. (with some warmth): Never mind what you were about to tell me, sir. If learned counsel would not constantly attempt to evade the questions of the court, the business of the court would be transacted in a much more rapid and satisfactory manner, and there would be a great saving of the public time.

Mr. A.: My lord, I was not attempting to evade your lordship's questions; but, with the object of saving public time, I ventured to think—

The L. C. B.: I must trouble you not to venture to think anything until you have told us the facts. When the court is in possession of *all* the facts, it will then, and not till then, be in a position to listen to any application which you may wish to make. In the meantime, I must ask you to have the goodness to raise your voice.

Mr. A. (in stentorian tones): I do not wish to make any applica —

The L. C. B.: You have not informed us for whom you appear.

Mr. A.: For the plaintiff. But if your lordship will bear with me one —

The L. C. B.: Stop, pray; for the plaintiff, you say. Does any one appear for the defendant?

Mr. A.: My learned friend, Mr. B.

Mr. B.: I appear for the defendant, my lord. I perhaps may be allowed to tell your lordship —

The L. C. B.: One at a time, please. Mr. A. is at present in possession of the court; and I desire, in the first instance, to hear from him, if he will have the goodness to tell me, which he seems strangely reluctant to do, the facts, the whole facts, and nothing but the facts.

(Mr. J. Mellor here left the court; and the facts, which which were of an uninteresting and complicated nature, were gone into. Owing to the defective acoustic properties of the building, frequent repetition was necessary, and *an hour and a half* were thus consumed. Mr. J. Mellor returned.)

The L. C. B.: Very well, you have explained the facts lucidly and clearly, and we shall now be most happy to hear the nature of your application.

Mr. A.: My lord, I have no application to make. (Laughter.)

The L. C. B.: I must really beg — nay, if necessary, I must insist — that there be no unseeming interruption to the business of this court. (To Mr. A.) You say you have no application to make. Will you have the goodness to tell us, then, why you are taking up the time of the court?

Mr. A.: My lord, I was about to ask your lordship to

allow this case to stand over until to-morrow, with the consent, as I was informed, of my learned friend on the other side. As I was about to apply to your lordship, I was told by my learned friend, who entered the court at that moment, that he had given no such consent; and I therefore desire to withdraw my application.

The L. C. B. (after consultation with the officers of the court): Of course, without the consent of the other side, we can make no such order. The case will retain its place on the list.

The court then adjourned for luncheon.

The late Judge Blackman, of Michigan, was very strict in requiring counsel to observe the rules of practice. In a cause in which Attorney T. had issued a *capias*, Attorney L. moved to quash the writ, and, proceeding with his argument, was interrupted by the judge:

"What are you reading from?"

"From a work on logic, your honor."

"Did you give Brother T. notice that you were going to read from a work on logic?"

"Of course not, your honor."

"Are you aware, sir, of the rule of court requiring notice to be given of matter likely to surprise the attorney on the other side?"

"Yes, your honor; but the rule has no application to a matter of this kind."

"I don't know, sir; I don't know. I know of nothing that would surprise Brother T. more than logic, and if you haven't given him notice that you were going to read from a work of that kind, I can't permit you to read it."

Lawyer L., proceeding with his argument, was again interrupted by the court:

"What are you reading from now, sir?"

"Green's grammar, your honor."

"Did you give Brother T. notice that you were going to read from Green's grammar?"

"Certainly not, your honor."

"Well, sir, I know of nothing in this world, aside from logic, that would surprise Brother T. more than grammar; and if you haven't given him notice of your intention to read from Green's grammar, I can't permit you to read it, and I shall deny your motion with costs."

Allen C. Spooner, a brilliant member of the Massachusetts bar, once moved to postpone the trial of a case. The judge refused the application, saying:

"I suppose you are aware, Mr. Spooner, that this court sits for the dispatch of business."

"I beg your honor's pardon; I thought it sat for the administration of justice."

On a motion before O'Conner, J., counsel opened the matter at great length. His lordship expressed a difficulty in understanding what was being moved for.

Counsel: "It is what they call in chancery 'speaking to the minutes.'"

His Lordship: "Hours, you mean."

A young man, having lost a cause in the criminal court, moved for a rule to show cause why a new trial should not be granted. The judge glanced hastily over the reasons, and, throwing them down, told counsel there was nothing in them, and that he wouldn't grant the rule. An older member of the bar privately remonstrated with the judge, and observed to him that the young man appeared to be mortified, and that it would, perhaps, have been better to have allowed the rule, and heard the argument, even if finally the new trial should not be granted.

"But," replied his honor, "the reasons amounted to nothing."

"Suppose it were so," rejoined the counsel, "motions of this sort often amount to nothing, as you yourself know. You were an eminent lawyer before you were placed upon the bench; yet, in the case of Early, in which your client was convicted of murder, one of the reasons assigned by you for a new trial was that, in arguing the case of the defendant, you had put some of the jury to sleep; yet the court entertained your motion, and I defy any man to suggest a poorer reason than that."

The judge laughed — admitted the truth of the statement — and reformed his practice.

The jury having returned a verdict of "guilty" against a man for stealing sheep, his counsel said:

"If your honor please, I move to quash the proceedings on the ground of a defective information. While my client admits stealing twelve lambs, he has been charged with and convicted of stealing twelve sheep. A lamb is not legally a sheep, your honor."

"Your point is well taken," replied the judge, after reflection, "and I will give the prisoner the benefit of the technicality. I was intending to sentence him to the penitentiary for two years, but will change it to state prison for the same term. While a lamb is not a sheep, neither is a state prison a penitentiary."

The late Judge Townsend, of California, an able lawyer, but slow in argument, appeared before Judge Wheeler one motion day, and, the motion calendar being called, ten were answered ready. Usually, ten "ready" motions can be disposed of in one or two hours. But Townsend had the first motion, and another "slow-coach" was the opposing counsel. Some of the attorneys who had other motions began to leave the chamber.

"Are you ready, Judge Townsend?" Wheeler inquired.

"Yes, your honor," said Townsend slowly.

"No other motion will be taken up to-day," said Wheeler.

Naturalization.—Some very amusing scenes occur in the naturalization courts:

Judge: "Do you know O'Brien?"

Irish witness: "Yes, sir."

"How long has he been in this country?"

"A little over five years."

"Is he a man of good moral character?"

"Sure, your honor, I don't know what moral character manes."

"Well, sir, does O'Brien stand fair before the community?"

"By my sowl, I don't apprehend your maning, your honor."

"I mean to ask you, sir, if O'Brien, the person who wants to be a citizen, and for whom you are a witness, is a good man, or not?"

"To be sure he is. Sure and I've seen him in ten fights during the last two years, and every time he licked his man."

A gem from the "ould sod" appeared before Judge Grey, of Elmira, New York.

"How long, Mr. O'Toole, have you been in this country?"

"Six years, y'r honor."

"Where did you land?"

"In New York, sir."

"Have you ever been out of the United States since you landed six years ago?"

"Niver but once, y'r honor?"

"And where did you go then?"

"To Elmira, y'r honor."

The judge joined heartily in the explosion that followed, but he gave the Irishman his papers.

Michael Muldoon was a tall, slim Irishman, with eyes full of humor and manners of the strictly private, confidential kind. In his interviews he desired to be in such close communion with you that the words he used would fall sooner upon your lips than ears. 'Twas a way he had, but it was an objectionable way. He came into the Court of Common Pleas one morning with a cloud of other men as a witness for his friend, Thomas O'Flaherty, who desired to become a citizen of the United States. He answered the questions put to him by the judge, and ever and anon, in endeavoring to get closer and closer to his interrogator, leaned over the rail which kept him from the sacred precincts of the bench, until he ceased to be perpendicular. At length he was asked:

"Is Thomas O'Flaherty a man of good moral character?"

Drawing himself to his full height, stepping back from the rail and looking astonished and indignant, he responded:

"Do you mane to axe me if me frind Tom is a man of good karacther?"

"I do," said the judge.

"Well, then, av ye do (and it's jokin' I think ye are) I'll tell ye all about it. *He plays on the fiddle. He rades the Boible. He doesn't whip the ould woman. An' he takes a dhrop of whiskey now and then. Will that plaze ye?*"

The success of this defence of his friend was satisfactory and another defender of the Union walked gallantly away.

The place was Boston, and the court room crowded with applicants for citizenship.

"Where does the President reside?" the judge asked an Italian.

"In Washington street."

"You may stand aside."

The Italian went away to brush up his history, and the judge said to a French-Canadian from Fall River:

"Who is the President of the United States?"

"McKinley."

"If he should die, who would succeed him?"

"His son."

This man also went away sorrowful.

So did the man who said the President lived "on Fleet street," and another who declared the President's name was "Byron;" and still another who asserted that the President was likewise governor of Massachusetts and mayor of Boston.

Nisbet, E. A.—Judge Nisbet, one of the truly great jurists in the early history of the Supreme Court of Georgia, was "a perspicuous and polished expositor of the law, in its principles and precedents;" but, as Walter B. Hill, Esq., says of him, in his interesting sketch of the Supreme Court of that state:

His mental organism had one singular defect: on the subject of spelling his mind was a howling wilderness. He could not spell nor learn to spell the commonest words. His method of orthography resembled a cyclone in chaos — a law unto itself. I have seen a letter from him in which he spelled "secession" three ways; he drafted the ordinance of secession for Georgia, but never learned to write that historical word. He humorously confessed his phonetic but revolutionary methods with

the alphabet, and cheerfully submitted to the reporter's revision of his decisions.

An anecdote he loved to tell is in order. He concluded a decision with the maxim, *Id certum est quod reddi certum potest.* The decision was adverse to the side represented by a strong-minded but utterly illiterate practitioner, who sometimes tarried at the wine-cup with the usual consequences to his eyes. He said in protest:

"Judge, I think it was bad enough to lose my case; I never expected to be called a red-eyed possum."

Norbury, Lord.—Norbury—"the hanging judge"—was noted for his wit and his severity.

In spite of its grimness, the humor of the following is evident. When acting in an official capacity, Norbury inquired of a man, capitally convicted, if he knew any reason why sentence of death should not be passed. The prisoner replied that he considered the joke had gone far enough and preferred to let the subject drop.

"The subject may drop," said his lordship.

A gentleman having boasted in his presence of having shot seventy hares before breakfast, Norbury observed very dryly:

"You must have fired at a wig."

Norbury and Counselor Parsons were passing by the Naas jail in the judge's carriage, when Norbury, noticing a vacant gibbet, observed:

"Parsons, where would you be if that gallows had its due?"

Parsons responded, "Riding alone."

It was said of Norbury that he would rather lose a friend than a joke. On one occasion he began sentence of death in this wise:

"Prisoner at the bar, you have been found guilty by a jury of your own countrymen of the crime laid to your charge; and I must say I entirely agree with the verdict; for I see 'scoundrel' written in your face."

"That's a strong reflection — from your lordship!" said the prisoner.

The judge, keenly appreciating the joke, commuted the sentence to transportation for seven years.

Norbury, while sitting as a special commissioner to try the culprits in one of the Irish rebellions, convicted a great many in a single day.

"You are going on swimmingly, my lord," said one of the counsel for the prisoners.

"Yes,"— significantly — "seven knots an hour."

Norbury was more noted for giving invitations than for hospitality. His invitations were always to his country seat, Cabra,— his town residence being too easy of access. On one occasion an old couple were simple enough to believe that the "When will you spend a week with me at Cabra?" really meant what it expressed; and, packing up the requisites for a visit, they presented themselves at "the country house." Norbury received them with the blandest smiles, and in his presence of mind did not quail as the lady's-maid, the band-boxes, the heavy trunk, and other indications of a protracted sojourn made their appearance. Radiant with delight, he exclaimed:

"My kind friends, my dear old friends, this is so very like you! Now, no excuses — not a word — not a word! I must positively insist on your staying to dinner."

At a dinner, Counselor Parsons sat opposite some salted beef.

"Is that *hung* beef, Mr. Parsons?" inquired Norbury.

"Not yet, my lord," was the caustic reply, "you have not tried it."

On one occasion Norbury observed an attorney of doubtful reputation touting in the dock for business, and determined to make an example of him. Just as the attorney was climbing over the rails of the dock into the court, his lordship called out:

"Jailer, one of your prisoners is escaping. Put him back."

Back the attorney was thrust, and the following colloquy ensued:

"My lord, there is a mistake here. I am an attorney."

"I am very sorry, indeed," said Norbury, "to see one of your profession in the dock."

"But, my lord, I am innocent."

"Yes, they all say that," was the judge's reply. "A jury of your own fellow countrymen must settle it."

"But, my lord," exclaimed the now desperate man, "there is no indictment against me."

"Then," said his lordship, "you will be put back, and if no one appears to prosecute, you will be discharged by public proclamation at the end of the assizes."

When Daniel O'Connell said, during a trial, that he feared the chief justice did not apprehend him, Norbury replied by alluding to the report that the agitator had surrendered himself to avoid fighting a duel: "No one is more easily apprehended than Mr. O'Connell — whenever he wishes to be apprehended."

Sir Jonah Barrington says of the judge, in his "Recollections," "Lord Norbury had a hand for everybody, and a heart for nobody."

Barrister Grady scored a good hit on Norbury:

"I am reminded, my lord, of a judge I once heard of who never wept but once, and that was at the theatre."

"Some high tragedy, I suppose, Mr. Grady?"

"Not at all, my lord; it was at the Beggar's Opera, when they reprieved Macheath."

When asked to contribute a shilling to bury a poor attorney, Norbury replied: "Only a shilling to bury an attorney? Here's a guinea; go and bury one and twenty of them."

Norbury had his joke to the very last. His neighbor, Lord Erne, was far advanced in years and bedridden. When his own health failed, he heard of his friend's increased illness.

"James," said he to his servant, "go next door and tell Lord Erne, with my compliments, that it will be a *dead-heat* between us."

North, Lord.—Lord North often slept during the speeches of his Parliamentary opponents, leaving a colleague to make note of anything remarkable. A tedious speaker during a naval debate began describing the growth of ship-building from the time of Noah's ark onward. When he had reached the time of the Spanish Armada, North was awakened inadvertently by his colleague, and inquired at what period the speaker had got to.

"We are now in the reign of Queen Elizabeth," was the answer.

"Dear, dear," said the Premier, "why not let me sleep *a century or two* more?"

North had a strong antipathy to classical music, and refused to subscribe to a certain series of concerts. "But your brother, the Bishop of Winchester, has subscribed."

"Yes," said his lordship, "if I were as *deaf* as my brother I would *subscribe too*."

"When the Dutch say 'We maritime powers,' it reminds one," said North, "of the cobbler who lived next door to the lord mayor, and used to say 'My neighbor and I.'"

Nye, James W.— One of the stories illustrative of the ready wit of the late Senator Nye is that he was once engaged in a case before a peevish judge in Southern Nevada, and had examined a witness at great length. At last the patience of the judge was exhausted, and, rebuking Nye for his course, he petulantly asked:

"General Nye, what do you think I am sitting here for?"

Nye answered coolly:

"You have me this time, your honor."

Nye was once defending a prisoner who had confessed his crime, and against whom the evidence was overwhelming. As there were no extenuating circumstances, Nye hardly knew how to commence his plea. Finally, fertile of resources, he made the following appeal to the jury, and secured an acquittal:

"Gentlemen of the jury," he began very solemnly, "you will not send this man to the scaffold, for death is the end of all earthly regrets and perhaps the first of eternal pardon. You will not condemn him to prison for life to enjoy the proud satisfaction of expiating his sin. No! punish him as he deserves by restoring him to liberty and a future laden with opprobrium and embittered by remorse. Hang him, and it is but a moment's pang. Set him free, and a guilty conscience will follow him to his grave!"

Oath.— A judge asked an "Ole Virginny" witness:

"Do you know what an oath is?"

"Yes, sah; when a man swears to a lie he's got to stick to it."

A negro giving evidence in a Georgia court was reminded by the judge that he was to tell the whole truth.

"Well, yer see, boss, I'se skeerd to tell de whole truf for feer I might tell a lie."

Judge (to witness): "Do you know the nature of an oath?"

"Sah?"

"Do you understand what you are to swear to?"

"Yes, sah; I am to swar to tell de truf."

"And what will happen if you do not tell it?"

"I expects our side'll win de case, sah."

When dealing with children, either in the witness box or in the dock, Sir Henry Hawkins always displayed a kindly disposition. He was once testing whether a boy witness understood the nature of an oath. In the course of his questions he said to the lad:

"If I were to say that you had an orange in your mouth, would that be the truth?"

"No, it would be a lie."

"And if I said you had one in your hand?"

"That would be another lie."

"And if I promised you a bag of oranges and didn't give them to you, what would that be?"

"That would be a lie."

"And if I did give them to you?"

"That would be the truth."

"Very well; I will," and he did.

O'Connell, Daniel.— O'Connell, the distinguished patriot and orator, was admitted to the bar in 1798, attaining fine success as a brilliant pleader. By his fervent advocacy of Catholic emancipation he is popularly known as the Great Agitator. To an unrivaled ability, wit, courage and marvelous eloquence, he united a rare knowledge of the Irish character. Wendell Phillips says of him: "Broadly considered, his eloquence has never been equaled in modern times, certainly not in English speech. Do you think I am partial? John Randolph, the Virginia slave-holder, who hated an Irishman almost as much as he hated a Yankee, himself an orator of no mean level, on hearing O'Connell, exclaimed, 'This is the man, these are the lips, the most eloquent that speak English in my day.' I remember the solemnity of Webster, the grace of Everett, the rhetoric of Choate; I know the eloquence that lay hid in the iron logic of Calhoun; I have melted beneath the magnetism of Sergeant S. Prentiss, of Mississippi, who wielded a power few men ever had. It has been my fortune to sit at the feet of the great speakers of the English tongue on the other side of the ocean. But I think all of them together never surpassed, and no one of them ever equaled, O'Connell. Nature intended him for our Demosthenes. Never since the great Greek has she sent forth any one so lavishly gifted for his work as a tribune of the people: he had a magnificent presence, impressive in bearing, massive like that of Jupiter."

"When I was in Naples," says Phillips, "I asked Sir Thomas Buxton, a Tory, 'Is O'Connell an honest man?' 'As honest a man as ever breathed,' was the reply; and then he related this story:

"When O'Connell entered Parliament in 1830, the Anti-Slavery cause was so weak that it had only Lushington and myself to speak for it; and we agreed that when he

spoke I would cheer him, and when I spoke he would cheer me; and these were the only cheers we ever got. O'Connell came, with one Irish member to support him. A large number of members (I think Buxton said twenty-seven), whom we called the West-India interest, the Bristol party, the slave party, went to him, saying, 'O'Connell, at last you are in the House, with one helper. If you will never go down to Freemasons' Hall with Buxton and Brougham, here are twenty-seven votes for you on every Irish question. If you work with those Abolitionists, count us always against you.'

"It was a terrible temptation. How many a so-called statesman would have yielded! O'Connell said: 'Gentlemen, God knows I speak for the saddest people the sun sees; but may my right hand forget its cunning and my tongue cleave to the roof of my mouth if, to save Ireland — even Ireland — I forget the negro one single hour!' 'From that day,' said Buxton, 'Lushington and I never went into the lobby that O'Connell did not follow us.'

"The foremost Catholic of his age, the most stalwart champion of the church, he was also broadly and sincerely tolerant of every faith. His toleration had no limit and no qualification."

In 1843, when the Munster meetings were proceeding, the Peel ministry sent shorthand writers to report the speeches of O'Connell. On one occasion, seeing the gentlemen of the press assembled on the platform, ready to record every word he uttered, O'Connell called out to know whether they had every facility and accommodation necessary. They answered, truly, that everything had been done for their ease and comfort. It was in one of the southern counties, where the Irish language is spoken as often as the English, and O'Connell, glancing

waggishly around, commenced a speech in Irish, to the surprise and dismay of the English reporters. The audience instantly caught the humor of the joke and shouts of laughter followed. It was a great triumph thus to have baffled the government through its reporters, and was one of the amusing episodes of a period of great personal and political excitement.

A story is told of a victory achieved over O'Connell by a witness whom he was cross-examining. It was after he had won his celebrated *sobriquet* of "the big beggarman." The witness was for the crown, in a case of riot committed by a mob of beggars, and he represented the affair as very serious.

"Now, just tell the court how many there were," said O'Connell.

"Indeed, I never stopped to count them, your honor; but there was a whole tribe of them!"

"A whole tribe of them! Will ye tell us to what tribe they belonged?"

"Indeed, your honor, that's more than I can do at all, for sure I never heard; but I think it must have been to the tribe of Dan!"

"You may go down, sir!" cried O'Connell in a rage, amidst the irrepressible laughter of the court.

O'Connell was defending a prisoner indicted for murder. The principal witness swore strongly against the prisoner — one corroborative circumstance being the prisoner's hat found near the spot where the murder took place. The witness swore positively the hat produced was the one found, and that it belonged to the prisoner, whose name was James.

"By virtue of your oath, are you positive that this is the same hat?"

"Yes."

"Did you examine it carefully before you swore in your information that it was the prisoner's?"

"Yes."

"Now, let me see," said O'Connell,—and he took up the hat, and began carefully to examine the inside. He then spelt aloud, slowly: "J-a-m-e-s." Now, do you mean to say that name was in the hat when you found it?"

"I do."

"Did you see it there?"

"I did."

"And this is the same hat?"

"Yes."

"Now, my lord,"-said O'Connell, holding up the hat to the bench, "there's an end to this case — there is no name whatever inscribed in the hat."

The result was instant acquittal.

O'Connell's story of doing a judge out of a bribe is interesting:

"Dennis O'Brien had a record at Nenagh. The judge talked of purchasing a pair of carriage horses, and Dennis accordingly sent him a magnificent pair, hoping they would answer his lordship. The judge graciously accepted the horses, and praised their points extravagantly, and, what was more important for Dennis, he charged the jury in his favor, and obtained a verdict for him. The instant Dennis gained his point he sent in a bill to the judge for the full value of the horses. His lordship called Dennis aside to expostulate privately with him:

"'Oh, Mr. O'Brien,' said he, 'I did not think you meant to charge me for those horses. Come, now, my dear friend, why should I pay you for them?'

"'Upon my word, that's curious talk,' retorted Dennis, in a tone of defiance; 'I'd like to know why your lordship should not pay me for them?'

"To this inquiry, of course, a reply was impossible; all the judge had for it was to hold his peace and pay the money."

He was applied to by a friend for his autograph; to which he replied:

"*Sir*, I never send autographs.

"Yours, DANIEL O'CONNELL."

Thomas Massey, a Parliamentary member who had his eye always on the Pope, brought in a bill to obliterate the Popish affix "mas" or "mass," and substitute the good old Saxon word "tide" in all instances as Christmas and Michaelmas, so that they should read "Christtide" and "Michael-tide," respectively. O'Connell listened attentively to all the member had to say in favor of his scheme, and then got up and said: "Since the honorable gentleman is so anxious to wipe out the obnoxious 'mas' from the English vocabulary, why does he not make a commencement by Saxonizing his own name? In that case he would be known as Thotide Tidey." The bill was fairly laughed out of the House.

How to forgive the man you have injured has an amusing illustration: Charles Phillips, when commencing his career at the Irish bar, received much attention from O'Connell. Later, in an accidental discussion in Parliament, in which Phillips's authority as an Irishman was used in opposition to the views of O'Connell, the latter indulged in a diatribe against Phillips, which entirely estranged him from the idol of the Green Isle. Months passed without any communication or recognition between them. But one day at the club, up came O'Connell to Phillips, exclaiming:

"I'm tired of not speaking to you, Charles. Shake hands; I forgive you, Charles."

Phillips did not venture to say what was at the tip of his tongue — that it was the first instance of an aggressor forgiving the man he had injured. The two were reconciled and as affectionate as ever.

Alluding to the loose construction of Parliamentary enactments, O'Connell said:

"I can drive a coach-and-six through any act of Parliament."

Once when O'Connell was rudely interrupted during the debate on the Irish Registration Bill, he used the expression "beastly bellowings." "Then arose," says Macaulay, in his journal, June 11, 1840, "such an uproar as no O. P. mob at Covent Garden, no crowd of Chartists in front of the hustings, ever equaled. A short and most amusing scene passed between O'Connell and Lord Maidstone, who was so ill-mannered that I hope he was drunk. "If," said Maidstone, "the word 'beastly' is retracted, I shall be satisfied. If not, I shall not be satisfied." — 'I do not care whether the noble lord be satisfied or not.' — 'I wish you would give me satisfaction.' — 'I advise the noble lord to carry his liquor meekly.'"

O'Connell, in one of his speeches in Conciliation Hall, told his followers that if measures injurious to Ireland were brought to Parliament he would go over to England, and "die on the floor of the House of Commons in opposition to them;" and when he came back he would say, "Are you for Repeal now?"

O'Connell related the following pathetic story of Mr. Tim Driscoll, for many years a leading member of the Munster circuit:

"I remember," he said, "an occasion when Tim behaved nobly. His brother, a blacksmith, was to be tried for his

life for the part he had taken in the rebellion of 1798; and Tim's friends among the barristers predicted that Tim would shirk his brother and contrive to be engaged in the other court when the trial should come on, in order to avoid the public recognition of so humble a connection as the blacksmith. Bets were offered upon the course Tim would take. He nobly disappointed the predictions of his enemies. He waited till his brother was brought into the dock — sprang into the dock and embraced him — remained at his side during the whole trial, cross-examined the witnesses for the prosecution from the dock, invariably styling the prisoner 'my brother.' He carried the sympathies of the jury entirely with him, got a verdict for his brother, and earned glory for himself."

When O'Connell was yet a very young man his talent for vituperative language was so great that he was deemed matchless as a scold. There lived in Dublin Biddy Moriarty, who kept a huckster's stall on one of the quays nearly opposite the Four Courts. She was a first-class virago,—formidable with fist and tongue,—so that her voluble imputation had become proverbial in the country round about.

Some of O'Connell's friends thought that he could defeat her with her own weapons, while others ridiculed the idea. The Kerry barrister could not stand this, so he backed himself for a match. Bets were offered and taken, and it was decided that the matter should be settled at once. So, proceeding to the huckster's stall with a few friends, O'Connell commenced his attack on the old lady:

"What is the price of this walking-stick, Mrs. What's-your-name?"

"Moriarty, sir, is my name, and a good one it is; and

what have you to say agin it? and one and sixpence's the price of the stick. Troth, it's cheap as dirt, so it is."

"One and sixpence for a walking-stick! whew! Why, you are no better than an impostor to ask eighteenpence for what cost you twopence."

"Twopence your grandmother! Do you mane to say that it's chating the people I am? Impostor, indeed!"

"Ay, impostor; and it's that I call you to your teeth."

"Come, cut your stick, you cantankerous jackanapes."

"Keep a civil tongue in your head, you old diagonal," cried O'Connell, calmly.

"Stop your jaw, you pug-nosed badger, or by this and that," cried Mrs. Moriarty, "I'll make you go quicker nor you came."

"Don't be in a passion, my old radius; anger will only wrinkle your beauty."

"By the hokey, if you say another word of impudence, I'll tan your hide, you bastely common scrub; and sorry I'll be to soil my fists upon your carcass."

"Easy now,—easy now," cried O'Connell, with imperturbable good humor; "don't choke yourself with fine language, you old whiskey-drinking parallelogram."

"What's that you call me, you murderin' villain?" roared Mrs. Moriarty, stung into fury.

"I call you," answered O'Connell, "a parallelogram; and a Dublin judge and jury will say it's no libel to call you so."

"Oh, tare-an-ouns! Oh, holy Biddy! that an honest woman like me should be called a parrybellygrum to her face! I'm none of your parrybellygrums, you rascally gallows-bird, you cowardly, sneaking, plate-lickin' bliggard!"

"Oh, not you, indeed!" retorted O'Connell. "Why, I suppose you'll deny that you keep a hypothenuse in your house."

"It's a lie for you, you beastly robber! I never had such a thing in my house, you swindling thief!"

"Why, sure all of your neighbors know very well that you keep not only a hypothenuse, but that you have two diameters locked up in your garret, and that you go out to walk with them every Sunday, you heartless old heptagon."

"Oh, hear that, ye saints in glory! Oh, there's bad language from a fellow that wants to pass for a jintleman! May the divil fly away with you, you mealy-mouthed bag of wind!"

"Ah, you can't deny the charge, you miserable submultiple of a duplicate ratio."

"You saucy tinker's apprentice, if you don't cease your jaw, I'll —" But here she gasped for breath, unable to hawk up any more words, for the last volley of O'Connell had nearly knocked the wind out of her.

"While I have a tongue I'll abuse you, you most inimitable periphery. Look at her, boys! there she stands, — a convicted perpendicular in petticoats. There's contamination in her circumference, and she trembles with guilt down to the extremities of her corollaries. Ah! you're found out, you rectilinear-antecedent and equiangular old hag! 'Tis with you the devil will fly away, you porter-swiping similitude of the bisection of a vortex!"

Overwhelmed with this torrent of language, Mrs. Moriarty was silenced. Catching up a saucepan, she was aiming at O'Connell's head when he very prudently made a timely retreat.

"You have won the wager, O'Connell; here's your bet," cried the gentleman who had proposed the contest.

After O'Connell had obtained the acquittal of a horse-stealer, the thief in the ecstacy of his gratitude cried out:

"Och, counselor! I've no way *here* to thank your honor;

but I wish I could see you *knocked down in my parish*, wouldn't I bring a faction to the rescue?"

O'Conor, Charles.— O'Conor, of New York, was one of the greatest lawyers this country has produced. He impressed court and jury with his sincerity and high sense of honor, and with a style clear, forceful and often epigrammatic.

One day, in the early professional career of Roscoe Conkling, he came into O'Conor's office in quite a nervous state.

"You seem to be very much excited," said O'Conor, as Roscoe walked up and down the room

"Yes, I'm provoked — I am provoked; I never had a client dissatisfied about my fee before."

"Well, what's the matter?" said O'Conor.

"Why, I defended Gibbons for arson, you know. He was convicted, but I did hard work for him. I took him to the Superior Court and he was convicted, then on to the Supreme Court, and the Supreme Court confirmed the judgment and gave him ten years. I charged him $3,000, and now Gibbons is grumbling about it — says it's too much. Now, Mr. O'Conor, I ask you, was that too much?"

"Well," said O'Conor, deliberately, "of course you did a good deal of work, and $3,000 is not a very big fee, but to be frank with you, Mr. Conkling, my deliberate opinion is that he might have been convicted for less money."

O'Conor once met a friend on the street, who said:

"I am on the way to attend the funeral of Mr. Robert Stimpson; won't you accompany me?"

O'Conor and Stimpson had been on bad social terms. "No, I cannot attend Mr. Stimpson's funeral under the

circumstances." But he reflected a few moments, and then replied:

"On the whole, I think I ought to attend his funeral, for he would have been delighted to attend mine."

O'Grady, Baron.— Justice O'Grady was a sarcastic ruler on the bench and a wit of considerable power. Thus, when a young barrister resumed his seat, after laboring zealously for two hours to convince the court, O'Grady observed:

"Well, sir, all that may be very fine, but I confess I cannot understand it."

There is a class of shabby lawyers in Dublin whose practice is exclusively confined to the defense of criminals at Green Street, the Irish Old Bailey. These gentlemen are sometimes clamorous and contumacious. O'Grady, however, had the happy knack of bringing them to a proper sense of their situation. One of these barristers, on the trial of a pickpocket, having been employed as counsel for the prosecution, assumed an imperious air, and took special care to reiterate loudly and frequently, for the information of his lordship, that he was counsel for the Crown. O'Grady bore this patiently for a time, till at last, when the pompous barrister again exclaimed he was counsel for the Crown, his lordship remarked:

"Yes, sir, and I believe sometimes for the half-crown, too."

An Irish attorney, not proverbial for his probity, was robbed one night in going from Wicklow to Dublin. His father, next day, meeting O'Grady, said:

"My lord, have you heard of my son's robbery?"

"No," replied the baron; "whom did he rob?"

On a verdict of *Not Guilty* in a clear case of highway robbery O'Grady asked the clerk:

"Is there any other charge against this honest man?"

Told there was not, he said:

"Mr. Jailor, as I am leaving Tralee on my way to Cork to-day, don't discharge this man until I have half an hour's start of him on the road."

In a case tried before O'Grady, a wild, refractory peasant refused to answer a question as to character put to him by counsel, and said, "If ye ax me that ag'in I'll give ye a kick in the gob."

"Does your lordship hear that language?" said counsel, appealing to the judge. "An answer to my question is essential to my client's case. What does your lordship advise me to do?"

"If you are resolved to repeat the question," said the judge, "I'd advise you to move a little from the witness."

O'Grady had a dry humor and a biting wit. The latter was so fine that its sarcasm was often unperceived by the object against whom it was directed. A legal friend of his, who was extremely studious, but in conversation exasperatingly dull, showed the judge over his newly-built house. The lawyer prided himself especially on a library that he had contrived for his own use, so secluded from the rest of the building that he could pore over his books in private, quite secure from disturbance.

"This is splendid," exclaimed O'Grady. "My dear fellow, you could read and study here from morning till night, and no human being would be one bit the wiser."

Oratory.— Hon. Thomas B. Reed, of Maine, writing of oratory, says: "You all remember Webster's statement that 'eloquence is in the man, the audience and the occa-

sion.' No one of the three can be lacking. The man is not enough, nor the audience, nor the occasion. I well remember once a hall filled with shouting thousands at the opening of the civil war, where the audience and the occasion were both worthy of eloquence, but the orator was not there, and the chilled audience sank back disheartened and weary."

"A great speech," says Charles O'Conor, "is one thing, but the verdict is *the* thing." When he stood before the Supreme Court in Washington, endeavoring to win a hundred-thousand-dollar fee, some one asked O'Conor why he didn't use more oratory. He replied:

"I wanted the hundred thousand dollars, not the empty applause. You can't sell oratory for a hundred thousand dollars, you have to give it away on the Fourth of July."

> Loose declamation may deceive the crowd,
> And seem more striking as it grows more loud.
> —*Joseph Story.*

When Chief Justice Parsons, of Massachusetts, was practicing at the bar, a farmer, who had often heard him speak, was asked what sort of a pleader he was.

"Oh, he is a good lawyer and an excellent counselor, but a poor pleader," was the reply.

"But does he not win most of his cases?"

"Yes, but that's because he knows the law and can argue well; but he's no orator."

A hard-headed bank president once congratulated himself, in the presence of Mr. Mathews, on resisting, as a foreman of a jury, the oratorical blandishments of Mr. Choate.

"Knowing his skill," said the hard-headed man, "in making white appear black and black white, I made up my mind at the outset that he should not fool me. He

tried all his arts, but it was of no use; I just decided according to the law and evidence."

"Of course," answered Mr. Mathews, "you gave your verdict against Mr. Choate's client?"

"Why, no, we gave a verdict for his client; but then we couldn't help it, he had the law and the evidence on his side."

It never occurred to the bank president or to the farmer that Choate and Parsons were after verdicts, not admiration. And they got them because they sunk the orator into the advocate.

Hon. J. W. Donovan, of Detroit, whose bright books are an inspiration, writes eloquently of oratory — true oratory that touches the heart and sways the reason:

As to the effect of eloquence, let me repeat what I have said once with emphasis: I have heard Gen. Butler in his powerful philippic on an Indianapolis editor, when hundreds stood upon the seats and shouted, "Hit him again! Give it to 'im! (smiting their hands together) Give it to him!" until I realized the force of "fighting eloquence." I have heard Gough give his nineteen rewards to the faithful, looking up towards the heavens with expanded nerves, and eyes dilated, face all ablaze with magnetism, hands charged with electricity, and tones tuned with the finest melody. I have seen Benjamin F. Taylor when he marched the forces up the sides of Lookout Mountain, and pictured the battle above the clouds with life-like energy — pictured it so graphically that we could almost hear the final shout of victory that shook the hills of Tennessee, when the boys in gray retreated from the boys in blue. I have heard the echoing shout receding over Cemetery Hill, caught up by Union forces and carried through the ranks of the entire Army of the Cumberland; I saw the audience sit spellbound at

the close, dismissed by a wave of the chairman's hand, so touched by the grandeur of the scene that they marched out in silence from college chapel, and I called that eloquence,—but it was imaginary. I have heard Phillips describe the conduct of a heroic general till he called before us the mighty dead, like Napoleon, Wellington and Alexander, and, "dipping his finger in the sunlight," write on the blue arch of heaven the name of his brilliant hero, and I was thrilled by his graphic description,—and even that was imaginary. And when a real picture came before me in a New York court room, and Beach was the champion of a wife discarded by a wealthy husband, and when I heard him rehearse her wrongs, and tell her simple story to a jury, and listened to their verdict of heavy damages, I knew, and felt, and realized the power and force of eloquence.

The highest eloquence is the demonstration of the heroic. Such eloquence is, at last, but the self-manifestation of the heroic spirit in its highest form. All heroic minds are thus eloquent, whenever the qualities that make them heroic are aroused and called into vigorous action. Eloquence is the spirit of men in operation. When such a soul acts it is eloquent in deeds; when it speaks, it is eloquent in words. Chatham and Mirabeau, Demosthenes, Henry, Jackson, Clay, Calhoun alone in the Senate opposing the Mexican war, and Washington when aroused, as on the field of Monmouth, possessed this eloquence in an eminent degree; and when it is called into exercise, common greatness shrinks appalled and cowed before its imperial authority. It is the rarest and most infallible of the gifts and marks of greatness; for it displays in a burst of passionate energy the highest properties of man—great will, great courage, great intellect—the forces that command and subdue mankind. —*Joseph G. Baldwin.*

Intellect alone, however exalted, without strong feelings — without even sensibility — would be only like an immense magazine of powder, if there were no such element as fire in the natural world. It is the *heart* which is the spring and fountain of all eloquence.— *Lord Erskine.*

"Oratory is a natural gift, not an acquirement," said a proud advocate after a long flight to the jury.

"Oh, we're not blamin' you," said the hayseed client; "you done the best you could."

'Possum Ridge has a literary and debating society, the first meeting of which was held one night at the old log school-house up at the cross-roads. 'Squire Beeson, because of his eminent fitness for the place, was chosen to preside, which he did in his usual happy manner, with a corncob pipe in his mouth, and his feet thrown up across the table. The question for debate was: "Resolved, That we owe a greater debt of gratitude to Washington than we do to Columbus." Judge Peters, a member of the County Court, led the discussion, saying:

"Mr. President and Feller Citizens: In my opinion thar ain't no question ter be argyed, for it is all one-sided. Atwixt them thar two men anybody ort to know which has got the call on our gratichood. I hain't got nothin' agin Columbus, Mr. President, an' I ain't goin' to run him down. He wuz a good enough sort o' feller in his way, I reckon, but he wa'n't nowhers nigh sich a man as Washin'ton, an' what he done fer us wa'n't a patchin' to what Washin'ton done. Mr. President, I ax yer wher'd we a been terday if it hadn't been fer Mr. Washin'ton? Wher'd our kentry a been if it hadn't been fer him? Columbus wuz a fair sort o' feller, Mr. President. I ain't denyin' of that. But Washington wuz wuth a dozen of 'im any day. Why, Mr. President, doorin' all the long

an' bloody war when battles wuz bein' fit an' giner'ls wuz bein' whupped, Washin'ton stood up fer our kentry an' never got a lickin'. I've seed, sir, whar it was writ down that Giner'l Lee tried monstrous hard to captur' Washin'ton, but he never wuz able ter do it. No, sir, nary time he never — Mr. Washin'ton wus too much fer him. Mr. President, if it hadn't a been fer Washin'ton, the South would a triumphed, an' the kentry would have been ruinated bowdeciously. What, I ax yer, could Grant an' Bonaparte an' Stonewall Jackson a done if Washin'ton hadn't a been thar ter help 'em? An' what, feller citizens, wuz Mr. Columbus a doin' of all this time? Whar wuz he, Mr. President, while Washin'ton wuz a fightin' like a wildcat on a hot skillet an a puttin' of Jeff Davis down? (Wild applause.) Wuz he a fightin' of his kentry's battles, Mr. President? No, sir, he wasn't. He never fit a lick fer his kentry. Now, Mr. President, you shorely can't fail to see which o' them fellers is entitled to our gratichood. Mr. Columbus wuz a right peart sort o' feller, I reckon, but he wa'n't nowhar in comparison to Mr. Washin'ton. Leavin' the question with yer, Mr. President, I'll now set down."

The Rev. Isom Bledsaw, known as the "silver-tongued orator of 'Possum Ridge," next addressed the audience in reply to Judge Peters. He said:

"Mr. President, Ladies, Gentlemen, and Feller Citizens of 'Possum Ridge: I'm here ter-night ter champion the cause o' one o' the greatest men this kentry has ever produced. I'm here ter-night ter speak out in favor o' the man who at his own expense went ter the trouble of diskivering us. The name of that man, feller citizens, is Columbus. My antagonist axes whar Columbus wuz while Washin'ton wuz fightin' of his kentry's battles, and I answer him, feller citizens, by sayin' that he wuz diskiverin'

of our kentry. Mr. President, I ax ye, whar would we be now, if we hadn't been diskivered, an' what good would Mr. Washin'ton's fightin' 'mount ter? Washin'ton wuz right smart punkins, I reckon, but he wa'n't knee-high to Columbus. Mr. Washin'ton wa'n't necessary to the savin' o' this here kentry, Mr. President. Thar wuz plenty o' others who'd a done it jest as well. But, Mr. President, whar is the man who'd a diskivered us if Columbus hadn't? I say, Mr. President, that if it hadn't been fer him we wouldn't a been diskivered. Did any of ye ever figger up what it cost Mr. Columbus ter diskiver us? Gentlemen, it must a cost more than it does ter run a four-months district school. (Hear, hear!) Yes, sir, I tell ye diskiverin' countries is high-priced work an' costs lots. Mr. President, I've sot down."

There is an amusing letter from Erskine, when he sat in the House of Commons, describing the effect produced on the House by Burke's speech on conciliation with America — in some respects the finest of all his speeches, not only for its eloquence, but for the breadth and practical wisdom of its political philosophy. The speech must certainly have occupied more than two hours in delivery, yet Erskine says that Burke had not been speaking half an hour when he emptied the House. Erskine himself got bored; but, anxious not to hurt Burke's feelings, he crawled toward the door on all fours, and thus escaped unseen. He goes on to add that, on reading the report of the speech, he was electrified by its power and eloquence.

It's a great mistake to think anything too profound or rich for a popular audience. No train of thought is too deep, or subtle, or grand,— but the manner of presenting it to their untutored minds should be peculiar. It should be presented in anecdote, or sparkling truism, or telling

illustration, or stinging epithet; always in some concrete form, never in a logical, abstract syllogistic shape.

— *Rufus Choate.*

Oswald, James Francis.— Oswald figures in many good stories of the English bar. He was the junior who, on being told by Justice Kay that, "although he could teach him law, he could not teach him manners," quietly remarked, "That is so, my lud."

Oswald's encounter with Justice Chitty was hardly so successful He had been addressing the court at great length in a bill-of-sale case, and at last said:

"And now, my lud, I address myself to the furniture."

"You have been doing that for some time, Mr. Oswald," was his honor's reply.

Otis, Harrison Gray.— It was said of Otis, the distinguished leader of the Boston bar, that he wielded an extraordinary power of persuasion, and that when he came before the court it sometimes damaged him. He relied too much upon it. Once, while arguing a case before a jury, Judge Parsons said:

"Brother Otis, don't waste your time on that point; there is nothing in it."

Otis stopped, looked the judge in the face, bowed, and, turning to the jury, went on to another point in the case.

"Nor on that, either, Brother Otis; don't waste your time."

Otis bowed again, went to a third point, and was again interrupted by the judge. Somewhat annoyed, he turned to the bench, and said:

"I regret to find myself unable to please the court this morning."

"Brother Otis," replied the judge, with a pleasant smile, "you always please the court when you are right."

Long before railway lines were in operation, Otis had an important case to argue in Boston on Monday, and having been detained in New York until Saturday, he left that city in his gig, rode on till late Saturday night, when he put up at a New England village inn, and resumed his journey Sunday morning. He had gone but a few steps from the tavern before a grave personage, known as a "tithing-man," stepped up, took his horse by the head, and coolly informed Otis that he was arrested for traveling on the Sabbath, and must proceed with him to the jail. Otis replied:

"Sir, I respect the day and the law; but I shall be obliged to break your head as well as the Sabbath, if you do not let me quietly go on my way."

But the officer was not to be bluffed off in this manner. He said he knew his duty, and should do it. Otis then drew out from his portmanteau a volume which the official recognized as the statutes of the state, and remarked very blandly:

"Well, my friend, it won't do any hurt to look at the law a little."

"Oh, no," said the tithing-man; "you will find it all there."

Otis read aloud, "If any person shall be guilty of Sabbath-breaking as aforesaid, it shall be lawful for the tithing-man to arrest and stop him;" and then he added, "The law is against me, I must admit."

"Well, then," rejoined the tithing-man, "you must make up your mind to quarter in the lock-up until to-morrow; so, if you please, we will ride back together."

"Oh, no!" retorted Otis, "that will never do. I don't intend that you shall ride back, or anywhere else, with me to-day. The statute reads, mind you, that you shall *arrest and stop;* that's all. You can stop me as long as

you please; but that is the extent of your power. The law says nothing at all about your carrying me off to the lock-up, nor of your riding in my gig on the Sabbath either!"

It was a stormy day. The poor tithing-man was completely drenched; and the prospect of standing by the gig all day and night in a muddy road was by no means either pleasant or compatible with the dignity of his office.

Otis again repeated with entire composure, "I still wish you to consider, sir, that I am your prisoner — for so reads the law; nothing more. You can go back if you please, but I intend to stop where I am."

So saying, the old lawyer drew his cloak around him, and made preparations for a quiet snooze until Monday morning, if the tithing-man maintained his watch until that far-distant day. The poor fellow looked as blue as indigo, and really felt quite as uncomfortable as a young gosling in a shower. He gazed a moment or two upon the composed expression of the sheltered and complacent lawyer, and without saying a word — for his feelings were too big for utterance — he relinquished his prey, and went home to meditate on the mysteries of the law and the plainer precepts of the gospel.

Otis lingered just long enough to permit the officer to get fairly around the corner, and then he proceeded on his journey, getting out of the state as soon as possible, lest he should not so easily get out of the hands of the law if he were caught again.

Park, Allan.—The late Justice Park, of England, acquired the habit of thinking aloud; and often, while a case was proceeding, muttered to himself, in accents distinct and audible, what he thought of it. At the trial of a prisoner charged with having stolen a quantity of

fagots, it remained only to identify the fagots found in his possession as the property of the prosecutor. One of the witnesses having distinctly identified the fagots produced as being those stolen from the prosecutor, Park was overheard by the counsel for the prisoner to mutter to himself:

"Fagots, fagots, fagots! How can any man swear to the identity of fagots? They are as like each other as a couple of eggs."

The learned counsel took no notice of what he had overheard, but allowed the trial to proceed in the usual manner. At length it came to his turn to address the court on behalf of the prisoner. He dwelt for some time on the minor points which he conceived to be in favor of his client; and then said, with great ingenuity and a marked emphasis:

"But, gentlemen of the jury, I now come to the most important thing in favor of the prisoner. Gentlemen, I put it to you, and I am sure the learned judge on the bench will concur with me in the importance which I attach to the point — I put it to you, whether it was not a most daring and presumptuous act on the part of the last witness when he ventured to swear to the identity of the fagots produced with those stolen from the prosecutor. Fagots, fagots, fagots; why, gentlemen, you must know that fagots are as like each other as a couple of eggs. How then dare any man swear to the identity of fagots? I am sure —"

"Stop, stop; stop a moment, Mr. ——," hastily interrupted Park. "Gentlemen of the jury, I think I see in what the learned counsel has just said a special interposition of Divine Providence to save an innocent man from ignominy and punishment; for the very same argument in favor of the prisoner occurred to my mind a quarter

of an hour ago, and, as nearly as could be, in the very words which the learned counsel has just made use of. Gentlemen of the jury, there must be a kind of inspiration in this: fagots *are* as like as eggs; no man can swear to their identity, and the best thing you can do is to acquit the prisoner at once."

The jury responded at once by a verdict of *not guilty*.

Perkins, Eli.—"I studied law in the Washington Law School," says Perkins. "In fact, I was admitted to the bar. I shall never forget my first case. Neither will my client. I was called upon to defend a young man for passing counterfeit money. I knew he was innocent, because I lent him the money that caused him to be arrested. Well, there was a hard feeling against the defendant in the county, and I pleaded for a change of venue. I made a great plea for it. I can remember even now how fine it was. It was filled with choice rhetoric and passionate oratory. I quoted Kent and Blackstone and Littleton, and cited precedent after precedent from the Digest and State Reports. I wound up with a tremendous argument, amidst the applause of all the younger members of the bar. Then, sanguine of success, I stood and waited the judge's decision. It soon came. The judge looked me full in the face, and said:

"'Your argument is good, Mr. Perkins, very good, and I've been deeply interested in it, and when a case comes up that your argument fits, I shall give your remarks all the consideration they merit. Sit down.'

"This is why I gave up law and resorted to lecturing and writing for the newspapers."

Peters, John Andrew.— In one of the interior counties of Maine, a case was called that had been many years

in litigation. Judge Peters thought it impracticable to keep the suit longer in court, and, advising the parties to arbitrate the matter, they agreed to refer the case to three honest men. With a grave smile, the judge said the case involved certain legal points which would require one of the referees, at least, to have some knowledge of law; therefore he would suggest the propriety of selecting one lawyer and two honest men.

In the fusion campaign of 1855 that elected Samuel Wells governor, Peters addressed a large gathering at night when his fellow-citizens rallied *en masse* with torch-lights in the street. Upon being introduced he began:

"Fellow Democrats—"

But at that moment a sudden gust of wind extinguished the torches. It became inky dark. For an instant it was very still. The judge might have been astonished, but he wasn't. He began again:

"Fellow Democrats," he shouted, "the wind has blown out our lights. It is so dark that I cannot see my hands before my eyes. I cannot see you, fellow Democrats, but I know you are all here. *I can smell you* in the sweet and pleasant air."

Peters asked Mr. Condy for the loan of a law book. The latter said:

"With pleasure I will send it to you."

"That," said the judge, "will be truly Condy-sending."

Peters, Richard.— Peters, of Eastern Pennsylvania, noted for his wit and brilliant social qualities, was an eminent United States district judge from 1789 to 1828.

The sign on his office window at the commencement of his professional career—"Richard Peters, Attorney-at-law. Business done at half price. N. B. Half done,"

tickled more fees out of country clients than could have been secured by more serious means.

Peters and Judge Washington of the Supreme Court — a quiet, severe man — were warm friends. Peters often remarked, "Brother Washington is the *strict* judge, and I am the district judge."

Lafayette and Peters rode together in the great procession in Philadelphia. Lafayette complained of the dust. Peters laughed, and explained his mirth by saying that, being a judge, he was used to having dust thrown in his eyes.

Pettifogger and Shyster.— The late E. G. Ryan, of the Wisconsin Supreme Court, was a jurist of great ability. Fearless independence and a terrible vigor of expression were marked characteristics of the man. His description of two vermin of the legal profession is a bit of portraiture unexcelled in legal literature:

"Behold the pettifogger, the blackleg of the law! He is, as his name imports, a stirrer up of small litigation; a wet-nurse of trifling grievances and quarrels. He sometimes emerges from professional obscurity, and is charged with business which is disreputable only through his tortuous devices. For the vermin cannot forego his instincts, even among his betters. He is generally found, however, and he always begins, in the lowest professional grade. Indeed, he is the troglodyte of the law. He has great cunning. He mistakes it for intelligence. He is a fellow of infinite pretence. He pushes himself everywhere, and is self-important wherever he goes. You will often find him in legislative bodies, in political conventions, in boards of supervisors, in common councils. He is sometimes there for specific villainy; sometimes on general

principles of corruption, waiting on Providence for any fraudulent job. He is always there for evil. The temper of his mind, the habits of his life, make him essentially mischievous. In all places he is virtually dishonest. When he cannot cheat for gain he cheats for love. He haunts low places, and herds with the ignorant. It is his kindly office to set them by the ears, and to feed his vanity and his pocket from the quarrels he incites or foments. He is in everybody's way, and pries into everybody's business. He meddles in all things, and is indefatigable in mischief. He is just lawyer enough to be mischievous. He is a living example of Pope's truth, that a little learning is a dangerous thing. Among his ignorant companions he is infallible in all things. Sometimes he is reserved and sly, with knowing looks which gain credit for wisdom and character, for thinking all that he does not utter. Generally he is loquacious, demonstrative of his small eloquence. Then his mouth is too loose for truth. By his own account he is full of law and overflowing. Among his credulous dupes he cannot keep it down. He knows all things. Nothing is new to him. Nothing surprises him. Nothing puzzles him. But it is in the law that his omniscience shows best. His talk is of law incessantly. He has a chronic flux of law, among his followers. He prates law mercilessly to every one, except to lawyers. He discourses of his practice and his success to the janitor of his office and the charwoman who washes his windows. He revels in demonstrative absurdity and boasts of all he never did. He is the guide, philosopher and friend of vicious ignorance. He is the oracle of dullness. He hangs much around the justices' courts. There he is the leader of the bar. But he finds his way into the courts of record. In them he is a plague to the bar and an offence to the bench. He is flippant, plausible, captious, insolent.

He is full of sharp practice, chicane, surprise and trick. He is the privateer of the court, plundering on all hands, on private account. He is ready to sell his client or himself. He is equal to all things, above nothing, and below nothing. He is ready to be the coroner of the county, or the chief justice of the United States. He would be a bore if he were not too dangerous for that harmless function. He is a nuisance to the bar and an evil to society. He is a fraud upon the profession and the public; a lawyer among clowns and a clown among lawyers.

"There is a variety of the animal known by the classic name of shyster. He has forced the word into at least one dictionary, and I may use it without offence. This is a still lower specimen; the pettifogger pettifogged upon; a troglodyte who penetrates depths of still deeper darkness. He has all the common vices of the family, and some special vices of his own. This creature frequents criminal courts, and there delights in criminal practice. He is the familiar of bailiffs and jailers; and has a sort of undefined partnership with them, in thieves, ruffians and the thousand-and-one violators of the law. These he defends or betrays, according to the exigencies of his relations with their captors or prosecutors. He has confidential relations with those who dwell in the debatable land between industry and crime. He is a friend of pimps and fences. He has intimacies among the most vicious men and women. He is the standing counsel of gambling dens and houses of ill-fame. He knows all about the criminals in custody, and has extensive acquaintance among those at large. He is conversant with their habits of life, and calls them familiarly by their Christian names. He prowls around the purlieus of jails and penitentiaries, seeking clients, inventing offences, organizing perjury, tampering with turnkeys, and tolling prisoners.

He levies blackmail on all hands. His effrontery is beyond all shame. He thinks all lawyers are as he, but not so smart. He believes in the integrity of no man; in the virtue of no woman. He loves vice better than virtue. He enjoys darkness better than light. His habits of life lead him to the back lanes and dark alleys of the world. He is the counsel of guilt, the attorney-general of crime."

"You follow the legal profession," said a gentleman to a shyster.

"No, sir; I lead it."

Chief Justice Andrews, of Connecticut, on the shyster element of the bar:

"If once the practice becomes to him a mere 'brawl for hire,' or a system of legal plunder where craft and not conscience is the rule, and where falsehood and truth are the means by which to gain his ends, then he forfeits all right to be an officer in any court of justice, or to be numbered among the members of an honorable profession."

Skill in examination is perhaps one of the most important qualifications of the attorney, and, in considering the big retainers of the present day, the mind runs back to an exhibition of skill in an Ohio county court many years ago, in a murder case, in which a pettifogging cross-roads lawyer was retained for his reputed skill in criminal cases. On cross-examination he went at the witness in this style:

"Now (ahem), Mr. Tompkins, you say you saw the defendant kill the man?"

"Yes, sir."

"Yes — well — how do you know it was the defendant?"

"Because I saw him."

"But, sir, how did you know it was him?"

"I've known him for thirty years."

"You have?"

"Yes."

"Known him all that time?"

"Yes."

"You state it under oath."

"Yes."

"How did he kill him?"

"He shot him with a revolver."

"How do you know?"

"I saw him."

"Did you see the revolver?"

"Certainly."

"Did you see it revolve?"

"No, sir."

"Aha! How do you know it was a revolver?"

"It looked like one."

"Um-huh! Did you see him pull the trigger?"

"No, of course not."

"Ah! Then you admit he didn't pull the trigger?"

"I saw the blaze and smoke."

"Did you see any bullet in the blaze and smoke? Would the blaze and smoke have caused death?"

"No, of course not."

"Then what danger was there in firing?"

"The bullet was found in the victim's head."

"Did you see any bullet strike the deceased?"

"Of course not."

The attorney solemnly arose and addressed the court:

"Here is a man who swears that he saw one man kill another with a revolver, yet he never saw the bullet leave the pistol nor strike the victim. He didn't even see the man pull the trigger."

"Are you addressing the court?" asked the judge.

"Why, certainly, if your honor please."

"How do you know?"

"Why, your honor certainly hears me."

"Yes, but you neither see your words leave your mouth nor hear them strike the court's ears."

The attorney sat down.

Hon. H. M. Wiltse, of Chattanooga, in a fine address before the Tennessee State Bar Association, picturesquely describes the "shyster:"

"The *brute shyster* is known to all men who have ever been about the courts of cities and towns. He is found mostly in police and magistrates' courts. There he is a past-master of the arts of impudence, swagger and cunning.

"Once get him into a court where some pretence is made to decency and decorum, and he is usually a cringing cur.

"No decent lawyer, probably, ever feels so utterly helpless, so 'like a cat in a strange garret,' as when he finds himself obliged to enter where these creatures are at home, to try a case with one of them opposed to him. They gloat over the opportunity to get even with respectability by offering it indignity. It becomes at once an occasion for violence or submission to indignity. Violence is out of the question, and if he calls for the intervention of the presiding officer he nearly always finds that officer on the side of the brute, because the brute is his best patron. He must submit to indignity, and, because he must, he ought to charge and receive an extra fee rather than a less one, every time he is obliged to practice in such places and under such circumstances.

"The *reptile shyster* is a bit below the brute shyster, because he does not know so much and has less natural sense. He is, like the other, the daily instrumentality of imposi-

tion, injustice, tyranny, robbery. Unfortunately the worst of his offences, like the most of them, never come to light.

"The *vermin shyster* needs little description. He would belong to the brute class, or at least the reptile class, if he had the sense and strength, but he has neither. He has been a justice of the peace, a constable, or may be a deputy sheriff, professional witness or juror, and has given no thought to anything save the most easily learned tricks of his ideals. He gets the license because the judge or the committee thinks he will do but little harm, and perhaps he does,—yet he is a very persistent pest; a parasite not to be much discussed here. He is dismissed without prejudice, but with a deal of quiet contempt.

"The judge who allows a man of this character to secure license ought to be impeached. The committeeman who recommends one for license ought to be disbarred and then beaten with many stripes. A decent lawyer who associates with one of either of the classes described, in such a way as to give him a semblance of professional standing, ought to be 'fined to the full extent of the law.'

"Not many years since, a man was killed by a railway train within the borders of Tennessee. The first information that his family received of his death was by telegram from a firm of attorneys, offering their services for suit against the company.

"There are others who 'work' their church and social relations secretly and openly for the upbuilding of their practice. I know one of these who has been connected with approximately half of the denominations and worshiped in more than half of the church edifices of a town which is rather noted for the extent and variety of its religious interests and advantages. Some of them go into the choirs, and squall the most grotesque tenor or

growl the most excruciating bass, without any just cause or provocation, to mortal ken, other than the presumption that their performances advertise to the world that they quote bad Latin and disturb the air with bad oratory in court rooms. If God can forgive such fellows for such conduct, then, indeed, may it be said that salvation is free.

"I do not pretend to have half exhausted the subject, but the subject has exhausted me. Perhaps time spent in writing about the shyster is time wasted. But he is a constant rebuke to the courts and to the worthy members of the profession. He is a constant menace to its interests. He robs the worthy of much which legitimately belongs to them in the way of emolument, and, what is worse, he filches the good name of the best and greatest of professions, and is gradually making it a by-word upon the lips of those who cannot discriminate between the clean and the unclean.

"The profession usually knows the shyster and places the proper estimate upon him. But even the profession is becoming dull in discrimination, and because the populace applauds him as 'sharp,' 'cute,' 'up-to-snuff,' and the like, many of us are learning, being too familiar with his face, to at least very patiently endure him."

A cunning joke is credited to Sir Joseph Jekyll, in allusion to Attorney Else, of diminutive stature and shady reputation. Meeting Jekyll he said:

"I hear you have called me a pettifogging scoundrel; have you?"

"Sir," replied Jekyll, with a look of contempt, "I never said you were a pettifogger or a scoundrel, but I said that you were *little Else*."

Phillips, John F.—Judge Phillips, of the United States District Court, Kansas City, Missouri, is one of the

brilliant jurists of the West. His wit and humor sparkle with gems of wisdom:

I was once engaged in trying before a jury an important cause. Associated with me were my partners, Judge Hicks, and George Vest, now United States Senator from Missouri. Judge Hicks always had a theory upon which the case was to be tried. He had studied much about the case on trial. I was conducting the cross-examination of an important witness, by whom I developed an unexpected fact dangerous to the adversary. Whereat the old judge shook me by the arm and impatiently said: "You are getting away from our theory of the case." Vest interposed, with characteristic impetuosity and quick discernment: "To the devil with the theory, Phillips, beat the case on the facts," which we did.

The old-fashioned common-law lawyer belongs to the silurian epoch. Like a grandfather's clock, a useful and ornamental piece of furniture in its day, now set up in the corner covered with dyspeptic cobwebs and interesting reminiscences, that never more strikes, he sits in his unswept office, wrapped in the solitude of his originality, in austere isolation, surrounded with a few venerable books, like Blackstone's Commentaries, Chitty's Pleadings, Fearne on Remainders, Coke's Littleton, Comyn's Digest, Gow on Partnership, the first edition of Phillips on Evidence, and a law glossary. They are his regimentals of the Revolution. He is almost sublime in his contempt for the innovations of modern commerce, science and law. He spurns even a cuspidor, as he uses his shirt bosom as a more democratic convenience. You will hear people say of this old fossil: "He is not an orator nor a hustler, but he is a great common-law lawyer." But what does he amount to in this day, clientless, ruminating over days gone by, when, like a snail in its shell, he

imagined the boundary walls of his legal vision circumscribed the whole universe? Commerce has come and added new continents of trade to the geography of the world, checkering the earth with railroads, exploring new seas whitened with sheets of canvas, catching every gale of prosperity. Electricity has come from the sky, and girdled the earth with fire, harnessed for the indefinite multiplication of mechanical power. Civil engineering has tunneled through and leaped over the mountains, while the earth trembles with the onward march of civilization, its bowels groaning with the vexing forces of applied physics, to make it give up its hidden treasures for the enrichment of the human race. With all this material development and progress has come the imperious necessity for the development of law; the application and extension of old principles to meet new conditions; the introduction of new statutes and the establishment of new customs, calling for construction and assimilation.

The evolutions of civilization are marked in legal science. The man who was a successful practitioner twenty years ago, and then closed his office and went out into the mountains, "far removed from the madding crowd's ignoble strife," were he to return to the court-house in Denver or Colorado Springs and hear a case on trial involving the flexible, adjustable principles of equity jurisprudence, to meet the exigencies springing out of commercial and corporation development and the complications arising from mammoth enterprises, would be little less amazed and lost than was Rip Van Winkle when he descended from his mountain sleep to his native village. And if he had left Colorado twenty years ago, and in that period had not read a reported case, and on his return should step into a Denver court-house, and find on trial a mining

case involving original discovery of ore in place, the parallelism of end line, the pursuit of the "dip," and continuity of vein, demanding a knowledge of chemistry, mineralogy, geology, surveying and photography — to say nothing of the marvelous advancement in expert testimony and the art of lying; and then should be told something about the more recent amplification of the rights of tunnel owners; or were to hear read one of Mr. Green's bills in equity against the owners of "The Little Johnny Lode," he would know that he would have to be born again before he could minister in the Temple of Justice.

Phillips, Wendell.— Phillips, famous as an orator and lecturer, graduated at the Harvard Law School in 1834.

At a New England dinner at Plymouth, in December, 1855, Phillips paid a worthy tribute to the sturdy founders of empire on this side of the water. One of his illustrative stories was:

"The Phillipses, Mr. President, did not come from Plymouth; they made their longest stay at Andover. Let me tell you an Andover story. One day, a man went into a store there, and began telling about a fire. 'There had never been such a fire,' he said, 'in the county of Essex. A man going by Deacon Pettingil's barn saw an owl on the ridge-pole. He fired at the owl, and the wadding, somehow or other, getting into the shingles, set the hay on fire, and it was all destroyed,— ten tons of hay, six head of cattle, the finest horse in the country, etc. The deacon was nearly crazed by it.' The men in the store began exclaiming and commenting on it. 'What a loss,' says one. 'Why the deacon will well-nigh break down under it," says another. And so they went on,

speculating one after another, and the conversation drifted on in all sorts of conjectures. At last, a quiet man, who sat spitting in the fire, looked up, and asked, 'Did he hit the owl?' (Great applause.) That man was made for the sturdy reformer, of one idea."

You can always get the truth from an American statesman after he has turned seventy or given up all hope of the Presidency.

Our self-made men are the glory of our institutions.

There is a class among us so conservative that they are afraid the roof will come down if you sweep off the cobwebs.

Men cry out against sentiment as though it were weakness. But what is Bunker Hill monument? Sentiment! Why did Massachusetts send the bust of Sam Adams to stand in the rotunda at Washington? Sentiment! This is the strongest element in the strongest character. A package was found among the papers of Dean Swift — that old, fierce hater, his soul full of gall, who faced England in her maddest hour and defeated her with his pen charged with lightning hotter than Junius's. Wrapped up among his choicest treasures was found a lock of hair. "Only a woman's hair," was the motto. Deep down in that heart, full of strength and fury, there lay this fountain of sentiment, calming and shaping all that character. Nelson, on the broad sea, a thousand miles off, signaled, "England expects every man to do his duty." What was that? Sentiment! It made a hero of every sailor. Yes, it made every sailor a Nelson. Cæsar, crossing the Alps, drew his whole army aside to spare a tree.

Every step of progress the world has made has been from scaffold to scaffold, and from stake to stake.

One, on God's side, is a majority.

Teach the world once for all that North America belongs to the Stars and Stripes, and under them no man shall wear a chain.

"The keynote to the oratory of Wendell Phillips," remarks a competent critic, "lay in this: that it was essentially conversational,— the conversational raised to its highest power. Perhaps no orator ever spoke with so little apparent effort, or began so entirely on the plane of his average hearers. It was as if he simply repeated, in a louder tone, what he had just been saying to some familiar friend at his elbow. The effect was absolutely disarming. Those accustomed to spread-eagle eloquence felt, perhaps, a slight sense of disappointment. Could this easy, effortless man be Wendell Phillips? But he held them by his very quietness; it did not seem to have occurred to him to doubt his power to hold them. The poise of his manly figure, the easy grace of his attitude, the thrilling modulation of his perfectly trained voice, the dignity of his gesture, the keen penetration of his eye, all aided to keep his hearers in hand. The colloquialism was never relaxed; but it was familiarity without loss of keeping. When he said *isn't* or *wasn't*, or even, like an Englishman, dropped his g's, it did not seem inelegant; he might almost have been ungrammatical, and it would not have impaired the fine air of the man. Then, as the argument went on, the voice grew deeper, the action more animated, and the sentences came in a long, sonorous swell, still easy and graceful, but powerful as the soft stretching of a tiger's paw. He could be terse as Carlyle, or his periods could be as prolonged and cumulative as those of Choate or Evarts: no matter; they carried in either case the same charm."

Pleading, Special.— Lord Chief Justice Coleridge, in his address to the law students of Birmingham, said, in referring to the technical rules of the English practice in 1847:

"The ruling power in the courts in 1847 was Baron Park, a man of great and wide legal learning, an admirable scholar, a kind-hearted and amiable man, and of remarkable force of mind. These great qualities he devoted to heightening all the absurdities and contracting to the very utmost the narrowness of the system of special pleading. The client was unthought of. . . . The right was nothing, the mode of stating everything."

Punch gives a humorous thrust at the cold, technical logic of special pleading under the old common law:

Before administering law between litigating parties, there are two things to be done, in addition to the parties themselves, namely: First, to ascertain the subject for decision, and, secondly, to complicate it so as to make it difficult to decide. This is effected by letting the lawyers state in complicated terms the simple cases of their clients, and thus raising from these opposition statements a mass of entanglement which the clients themselves might call nasty crotchets, but which the lawyers term *nice points*. In every subject of dispute with two sides to it, there is a right and a wrong; but in the style of putting the contending statements so as to confuse the right and the wrong together, the science of special pleading consists. This system is of such remote antiquity that nobody knows the beginning of it, and this accounts for no one being able to appreciate its end. The accumulated chicanery and blundering of several generations, called in forensic language the *wisdom of successive ages*, gradually brought special pleading into its present shape, or, rather, into its present endless forms. Its extensive drain

on the pockets of the suitors has rendered it always an important branch of legal study; while, when properly understood, it appears an instrument so beautifully calculated for distributive justice, that, when brought to bear upon property, it will often distribute the whole of it among the lawyers and leave nothing for the litigants themselves.

In the *Memoir* of Lord Bramwell is a telling illustration of the fact that reputation clings to us, even after many years. The great jurist as a little lad became a pupil at Doctor Reddy's school, where the late Baron Channell, three years his senior, was head boy.

Channell read for the law, and the two school friends scarcely met again until, years afterward, Mr. Channell held a brief in a certain case at Maidstone assizes.

Consultation with the solicitors showed a flaw in the pleadings drawn by them. It was of a sort which in those days would prove fatal to the case. The solicitors could only hope that it would not be discovered.

"Who is against us?" asked Channell.

"Oh," was the reply, "a Mr. Bramwell. Nobody ever heard of him before."

"Then, gentlemen," said the advocate, "we're done. I was at school with that gentleman."

He was right. Bramwell was too clever for them, and they were "done" indeed.

An action for an excessive seizure of goods under a distress warrant, at the suit of a farmer against the Rev. Theophilus Sumner, D. D., was tried before Justice Ball. The junior counsel for the plaintiff, in the course of opening the pleadings, said: "There are several counts, my lord, the last of which is for the wrongful conversion of the plaintiff's cow."

"Do I hear aright?" said the judge; "conversion of the plaintiff's cow, did you say? Who effected this marvelous conversion?"

"The reverend defendant, my lord."

"Wonderful! wonderful! Will counsel kindly read the count describing how the cow was induced to adopt the Christian faith?"

"It isn't that, my lord," said counsel, amid roars of laughter, and from his brief he read: "And also that the defendant converted the plaintiff's cow *to his own use.*"

Pleas.— An Irishman, who had doubtless been "blue mouldin' for want of a batin'," and could not resist the temptation to have a little exercise, was arraigned before Judge Brady, of New York, on a charge of assault and battery. He listened with rapt attention to the reading of the indictment. When that was ended, Mr. Vandervoort, the clerk, asked him, in accordance with the form then in use:

"Do you demand a trial on this indictment?"

Pat, leaning forward in seeming utter ignorance of what had been asked him, said:

"What's that?"

Vandervoort, a little dashed by the manner of the man, repeated the question; and the response was:

"The divil a thrial I want! Ye needn't give yourself the throuble of thryin' me! Ye may as well save the expinse of that and put me down innocent. Contint am I to lave this wid me blessin' on ye! Indade I'm anxious, for me boss is waitin' for me beyant! Oh, no, no; the divil a thrial I want at all, at all!"

All this was said so rapidly that Vandervoort could not interpose to stop it; and the prisoner having, as he supposed, settled the business, attempted to leave the court,

but was of course prevented. Vandervoort, when the mirth had subsided, changed the question, and asked:

"Are you guilty or not guilty?"

"What's that?" said he again, leaning forward with his hand to his ear, as if he had not heard the question.

"Are you guilty or not guilty?"

"Arrah! how can I tell till I hear the ividence?"

He got a taste of the evidence and — thirty days.

"Guilty or not guilty?" said a judge to a native of the Emerald Isle.

"Just as your honor plazes. It's not for the like o' me to dictate to your honor's worship."

David Sands, a prominent, witty and successful attorney in a rural section of New York, half a century ago, was employed to defend a client indicted for an assault and battery. When the case was called, Sands asked leave to file the following pleas:

"Not guilty, *son assault demesne, manus molliter imposuit*, the statute of limitations, and the following poetical one:

Primus strokus,
Sine jocus,
Absolutus est provocus."

So astounded was the illiterate prosecuting attorney — who had never heard of the pleas before — that he exclaimed: "Is the man mad?"

"May it please the court," said Sands, with an air of well-counterfeited contempt, "if the gentleman can't understand Latin, it is not my fault."

The pleas were received, and the case was laughed out of court.

Patrick McFadgin found himself indicted in the circuit court of Pickens county for indulging in sundry

Hibernian pastimes, whereby his superflux of animal and ardent spirits exercised themselves and his shillaly, to the annoyance of the good and peaceable citizens and burghers of the village of Pickensville. Squire Furkisson was a witness against him, and upon his evidence, chiefly, McFadgin was convicted on three several indictments for testing the strength of his shillaly on the craniums of as many citizens.

A more serious case was now coming up against Pat, having its origin in his drawing and attempting to fire a pistol, loaded with powder and three leaden bullets, which pistol the said Patrick in his right hand then and there held, with intent one Bodley then and there to kill and murder contrary to the form of the statute — it being highly penal to *murder* a man in Alabama *contrary* to the form of the statute.

To this indictment Patrick pleaded "Not guilty," and, the jury being in the box, the district attorney proceeded to call Furkisson as a witness. With the utmost innocence, Patrick turned his face to the court and said, "Do I understand yer honor that Misthur Furkisson is to be a witness fornent me agin?" The judge said dryly, it seemed so. "Well, thin, yer honor, I plade guilty sure, an' ef yer honor plaze, not because I *am* guilty, for I'm as innocent as yer honor's sucking babe at the brist — but jist on the account of saving Misthur Furkisson's *sowl*."

Plunket, Lord.—Lord Redesdale was never more puzzled than at one of Plunket's best *jeux d'esprit*. A cause was argued in chancery, wherein the plaintiff, represented by Plunket, prayed that the defendant should be restrained from suing him on certain bills of exchange, as they were nothing but kites.

"Kites!" exclaimed Redesdale. "Kites, Mr. Plunket,

kites never could amount to the value of these securities. I don't understand this statement at áll, Mr. Plunket."

"It is not to be expected that you should, my lord," answered Plunket. "In England and in Ireland kites are quite different things. In England the wind raises the kites, but in Ireland the kites raise the wind."

"I do not feel any better informed yet, Mr. Plunket," said the chancellor.

"Well, my lord, I'll explain the thing without mentioning these birds of prey," and therewith he elucidated the difficulty.

An aide-de-camp of Lord Wellesley published travels in the east under the title of "A Personal Narrative of a Journey from Bagdad," somewhat after the style of "Sinbad the Sailor."

"What does he mean," said the Lord Lieutenant, "by a *personal* narrative?"

"He means, my lord," said Plunket, "the same that we lawyers mean when we say that *personal* is the reverse of *real*."

Plunket, while pleading one day, observing the hour late, said it was his wish to proceed with the trial, if the jury would set.

"Sit, sir," said the judge, correcting him, "not set; hens set."

"I thank you, my lord," was the reply.

Shortly after, the judge had occasion to observe that if such were the case he feared the action would not lay.

"Lie, my lord," said Plunket, "not lay; hens lay."

Pollock, Baron.— Some one who wished the Baron to resign, waited on him, hinted at his resignation, and suggested it for his own sake, entirely with a view to the

prolongation of his valued life, and so forth. The old man rose, and said with his grim, dry gravity, "Will you dance with me?" The guest stood aghast as the Lord Chief Baron, who prided himself particularly upon his legs, began to caper about with a certain youth-like vivacity. Seeing his visitor standing surprised he capered up to him and said, "Well, if you won't dance with me, will you box with me?" And with that he squared up to him; and half in jest, half in earnest, fairly boxed him out of the room. The old Chief Baron had no more visitors anxiously inquiring after his health.

Pollock was prone to the expression of strong general views, which he conveyed in a manner eminently characteristic, with an idiomatic vigor and originality almost amusing. "If," said he, "every man were to take advantage of every occasion to have 'the law' of his neighbor, life would not be long enough for the litigation which would result. All flesh and blood would be turned into plaintiffs and defendants."

Precedent.— "I don't like to hear people dwelling so much upon *precedent*," said Horne Tooke; "it always shows there is something wrong in the *principle*."

When the judges sneeze, the lawyers take a pinch of snuff.

> Mastering the lawless science of our law,—
> That codeless myriad of precedent,
> That wilderness of single instances.
>
> —*Tennyson.*

While arguing a case in the Supreme Court, Rufus Choate took a position which appeared to be equitable; but the court demanded a precedent for it:

"I will look, your honors, and endeavor to find a precedent, if you require it; though it would seem to be a pity

that the court should lose the honor of being the first to establish so just a rule."

Lord Justice Romer, of England, swept away a venerable precedent and established a greatly improved one in its place. The old one was in a case where two judges had delivered opposite judgments, and a third observed oracularly: "I agree with Brother A. for the reasons given by Brother B." The new one is much finer. Lord Justice Smith had delivered judgment dismissing an appeal. Lord Justice Collins said: "I agree —" "I also agree," said Romer. "One moment," said Collins; "I haven't finished yet," and he proceeded to give his reasons. Then there was a solemn pause, and everybody looked anxiously at Romer. Firmly, if somewhat sadly, he spoke: "I still agree."

When judges are about to do an unjust or absurd action, they seek for a precedent, in order to justify their own conduct by the faults of others.

— *Sergeant Hill.*

In allusion to a quotation of precedents Lord Chatham protested: "I come not here armed at all points with law-cases and Acts of Parliament, with the statute books doubled down in dog's-ears, to defend the cause of liberty."

William Wirt, the eloquent and distinguished advocate, in the trial of a case stated a legal proposition the soundness of which was doubted by his opponent, who asked for his authority — citation of a precedent, with book and page. Wirt instantly replied in his most gorgeous manner:

"Sir, I am not bound to grope my way among the ruins of antiquity to stumble over obsolete statutes, and delve

eastern hills . . . with his old awakening gladness, and the night overflow with moonlight, love and flowers? Love itself is the greatest stimulant — the most intoxicating of all, and performs all these miracles.

"Men have tried many things, but still they ask for stimulant.

"Men try to bury the floating dead of their own souls in the wine-cup, but the corpse rises. We see their faces in the bubbles. The intoxication of drink sets the world whirling again, and the pulses to playing music, and the thoughts galloping, but the fast clock runs down sooner, and an unnatural stimulant only leaves the house it filled with the wildest revelry, more silent, more sad, more deserted.

"There is only one stimulant that never intoxicates — duty. Duty puts a clear sky over every man, into which the skylark, happiness, always goes singing."

Prentiss, S. S.— Prentiss, of Mississippi, died in 1850, at the age of forty-two. He was a great jury lawyer and famous as a stump speaker. None of his contemporaries, such as Webster, Choate, Marshall and Clay, ever spoke of him except in the highest praise.

The effect of his speech in the Mississippi contested election case, which introduced him to Congress and the country, was as great upon his audience as Pinckney's speech on the Missouri Compromise, or Webster's reply to Hayne. He rose an obscure young man from the wilds of the Yazoo and the Big Black. He sat down famous. "Nobody could equal it," said Webster, as he passed out of the hall of the House of Representatives. "I can never forget that speech," remarked Mr. Fillmore, many years after; "it was certainly the most brilliant that I ever heard."

Baldwin, in his "Flush Times of Alabama and Mississippi," says of him:

As an advocate, Prentiss attained a wider celebrity than as a jurist. Indeed, he was more formidable in this than in any other department of his profession. Before the Supreme or Chancery or Circuit Court, upon the law of the case, inferior abilities might set off, against greater native powers, superior application and research; or the precedents might overpower him; or the learning or judgment of the bench might come in aid of the right, even when more feebly defended than assailed. But what protection had mediocrity, or even second-rate talent, against the influences of excitement and fascination, let loose upon a mercurial jury, at least as easily impressed through their passions as their reason? The boldness of his attacks, his iron nerve, his adroitness, his power of debate, the overpowering fire — broadside after broadside — which he poured into the assailable points of his adversary, his facility and plainness of illustration, and his talent of adapting himself to every mind and character he addressed, rendered him, on all debatable issues, next to irresistible. To give him the conclusion was nearly the same thing as to give him the verdict.

Prentiss had no rival on the stump. A single dose of his oratory was generally enough for a competitor. On one occasion he was in the midst of a powerful invective against General Jackson. His audience was spellbound by his fervor. He himself seemed carried away by it. At this moment a Democrat, provided with a banner on which was inscribed, "Hurrah for Jackson!" came slowly down the centre aisle of the crowded court-house, where his audience was assembled.

Prentiss allowed the intruder to come almost within arm's reach, when, pausing an instant as if it were a

prearranged part, he exclaimed, "In short, my countrymen, here you have the whole sum and substance of the Jacksonian platform and argument, 'Hurrah for Jackson!'" The effect was electrical; the poor fellow slunk away, trailing his banner after him.

Prentiss was addressing a crowd of four thousand people in his state, defending the tariff, and in the course of an eloquent period which rose to a beautiful climax, he painted the thrift, the energy, the comfort, the wealth, the civilization of the North in glowing colors,—when there rose on the vision of the assembly, in the open air, a horseman of magnificent proportions; and just at the moment of hushed attention, when the voice of Prentiss had ceased and the applause was about to break forth, the horseman exclaimed, "D—— the North!" The curse was so much in unison with the habitual feeling of a Mississippi audience that it quenched their enthusiasm, and nothing but respect for the speaker kept them from cheering the horseman. Prentiss turned upon his lame foot and said:

"Major Moody, will you rein in that horse a moment?"

He assented. The orator went on:

"Major, the horse on which you ride came from Upper Missouri; the saddle that surmounts him came from Trenton, N. J.; the hat on your head came from Danbury, Conn.; the boots you wear came from Lynn, Mass.; the linen on your shirt is Irish, and Boston made it up; your broadcloth coat is of Lowell manufacture, and was cut in New York; and if to-day you surrender what you owe the d—— North you would sit stark naked."

In one of the hot political campaigns McNutt was the Democratic candidate for Governor and Prentiss the Republican nominee. Prentiss addressed the people in nearly

every county in the state; the people, *en masse*, flocked to hear him. The Democratic nominee did not attempt to meet him on the stump. Prentiss' march through the state was over the heads of the people, hundreds following him from county to county in his ovation. McNutt was a lawyer of fine ability and Governor of the state. Unfortunately, like most of the young and talented of that day in the West, he was too much addicted to the intoxicating bowl. Upon the only meeting of Prentiss and McNutt, the latter, in his speech, urged as a reason for the defeat of the former his dissipated habits, which, he said, were rendering him useless, with all his genius, learning and eloquence.

Prentiss, in reply, said:

"My fellow-citizens, you have heard the charge against my morals, sagely, and, I had almost said, soberly made by the gentleman, the Democratic nominee for the chief executive office of this state: had I said this, it would have been what the lawyers term a misnomer. It would be impossible for him to do or say anything soberly, for he has been drunk ten years; not yesterday, or last week, in a frolic, or socially, with the good fellows, his friends, at the genial and generous board — but at home, and by himself and demijohn; not upon the rich wines of the Rhine or the Rhone, the Saone or the Guadalquiver; not with high-spirited or high-witted men, whose souls, when mellowed with glorious wine, leap from their lips sublimated words swollen with wit, or thought brilliant and dazzling as the blood of the grape inspiring them — no, but by himself: selfish and apart from witty men or ennobling spirits, in the secret seclusion of a dirty little back-room, and on corn-whisky! — these only, communing in affectionate brotherhood, the son of Virginia and the spirits of old Kentucky! Why, fellow-citizens, as

the Governor of the state he refused to sign the gallon-law until he had tested, by experiment, that a gallon would do him all day!

"Now I will admit, fellow-citizens, that sometimes, when in the enjoyment of social communion with gentlemen, I am made merry with these, and the rich wines of glorious France. It is then I enjoy the romance of life. Imagination stimulated with the juice of the grape gave to the world the Song of Solomon, and the Psalms of that old poet of the Lord — glorious old David.

"The immortal verse of wandering old Homer, the blind son of Scio's isle, was the inspiration of Samian wine; and good old Noah, too, would have sung some good and merry song, from the inspiration of the juice of the vine he planted, but having to wait so long, his thirst, like the Democratic nominee's here, became so great that he was tempted to drink too deeply, and got too drunk to sing; and this, I fancy, is the true reason why this distinguished gentleman never sings.

"Perhaps there is no music in his soul. The glug — glug — glug of his jug, as he tilts and pours from its reluctant mouth the corn-juice so loved of his soul, is all the music dear to his ear, unless it be the same glug — glug — glug as it disappears down his rapacious throat.

"Now, fellow-citizens, during this ardent campaign, which has been so fatiguing, I have only been drunk once. Over in Simpson county I was compelled to sleep in the same bed with this distinguished nominee — this delight of the Democracy — this wonderful exponent of the principles and practices of the unwashed Democracy — and in the morning I found myself drunk on corn-whisky; I had lain too close to this soaked mass of Democracy, and was drunk from absorption."

This was more than the Governor could stand, and

amidst the shouts and laughter of the assembled multitude, he left the stand, and declined to meet again, before the people, the young Ajax-Telamon of the Whig party.

Punctuation.— There is a legend of a Dublin criminal trial wherein the prisoner's fate hung upon a question of punctuation. He was accused of robbery. The principal evidence against him was a confession alleged to have been made by him and taken down in writing by a police officer. And this was the incriminating passage:

"Mangan said he never robbed but twice said it was Crawford."

The officer explained that the meaning he attached to it was:

"Mangan said he never robbed but twice. Said it was Crawford."

"Nay," cried Mr. O'Gorman, the prisoner's counsel, after a careful examination of the document, this is the fair and obvious reading:

"Mangan said he never robbed; but twice said it was Crawford."

This explanation had its effect on the jury and the accused was acquitted.

The misplacement of a comma cost the government about two millions of dollars. The blunder occurred in a tariff bill more than twenty years ago. There was a section enumerating what articles should be admitted free of duty. Among the many articles specified were "all foreign fruit-plants," etc., meaning plants for transplanting, propagation or experiment. The enrolling clerk, a young attorney, in copying the bill, accidentally changed the hyphen in the compound word "fruit-plants" to a comma, making it read "All foreign fruit, plants," etc. The consequence was that for a year, until Congress could

remedy the blunder, all oranges, lemons, bananas, grapes, and other foreign fruits were admitted free of duty.

A Prussian school inspector appeared at the office of the burgomaster of a city to ask him to accompany him on a tour of inspection through the schools. The burgomaster was out of sorts, and was heard to mutter to himself:

"What is this donkey here again for?"

The inspector said nothing, but waited his time, and with the unwilling burgomaster set out on his tour. At the first school he announced his wish to see how well punctuation was taught.

"Oh, never mind that," grumbled the burgomaster, "we don't care for commas and such trifles."

But the inspector sent a boy to the blackboard and ordered him to write:

"The burgomaster of R. says, *the inspector is a donkey.*"

Then he ordered him to transpose the comma, placing it after R., and insert another one after inspector, and the boy wrote:

"*The burgomaster of R.*, says the inspector, *is a donkey.*"

It is probable that the refractory official gained a new idea of the value of commas and such trifles.

Quarles, J. V.— United States Senator Quarles, of Wisconsin, of rare ability as a lawyer — quiet, shrewd, tactful — possesses a fine sense of the humorous. A single illustration of this sense of humor is related in the story of a friend:

"How in the world Joe Quarles ever got to the front will be a mystery to some people who do not understand how a man can succeed unless he travels with a brass band. Joe would sit in a law-suit all day with his eyes shut, and apparently asleep. The other fellow would

make the noise, until finally Joe would trap him at the turn of the case and win by a single question. When all was over you would hear about three days after of a lot of things that Quarles had been doing. I don't know how he will talk in the Senate, but before a jury he talked just as he would in a country store on a rainy day. And he always said something in a quiet way. You didn't seem to think of it until he was gone. Then you went around and told everybody you knew what Joe Quarles said.

"I was at school with Joe at Racine College. There wasn't the same reason for me to study that there was for Joe. My father was rich, and I had a fool notion that I didn't have to study. One day, after I had been assigned to write an essay, I went to Quarles and told him I had to go fishing, and asked him if he would write my essay for me. He consented. Then he asked me which I liked best, prose or poetry. It struck me that a poetical essay would be a novelty, and I told him to grind out one in verse, and that I would give him some of the fish. When I returned he asked for the fish and got it, and then he said: 'There's your essay.' The next day I stood up before the class and read with innocence the verse dialogue beginning:

"'Lochiel, Lochiel, beware of the day,' and so forth. I read the whole of it while the professor and class giggled. When I resumed my seat the professor asked me if I wished to be understood as the author of the paper, and I said of course. He said that if I was right Tom Campbell was a pirate.

"That evening I met Quarles and asked him who Tom Campbell was.

"'Which Tom?' he asked.

"I said the one who was a pirate. Joe replied that

that was the one he didn't know. That essay cost my guv'nor $100. The class was hungry. In after years Quarles managed my guv'nor's estate, and when I asked him what I owed him he answered:

"'Nothing. When are you going fishin' again?'"

Randolph, John.— Randolph, of Virginia, was noted for his wit, eloquence and bitterness of speech. That his nature was not all rough is shown by his will, providing for the emancipation of his slaves, numbering more than three hundred, and by the following story:

"I once asked John Randolph," says John Quincy Adams, "who was the greatest orator he had ever heard. The reply was startling, from its unexpectedness. 'The greatest orator I ever heard,' said Randolph, 'was a woman. She was a slave. She was a mother, and her rostrum was the auction block.' He then rose and imitated with thrilling pathos the tones with which this woman had appealed to the sympathy and justice of the bystanders. 'There was eloquence!' he said. 'I have heard no *man* speak like that. It was overpowering!'"

Judge Baldwin finely observes: "Randolph's wit was much more than humor. It was a refined, wire-edged and diamond-pointed common sense; a sharp and shrewd sagacity, which, while it had the edge of sarcasm, had also the force of argument. Randolph had the rare faculty of interpreting for the crowd; of translating in better and apter language the thoughts passing in the mind of the hearer, who was delighted to find that Randolph was only thinking his thoughts. His verbal aptness was astonishing. When anything was to be characterized by an epithet, he at once characterized it by a word or phrase so striking and pat that it created the surprise and pleasure which are the most marked effects of wit. He had

the same aptness of quotation. No man made the resources of others more subservient to his own purposes. He did not merely appropriate. He gave a new value to the quoted sentence. There was as much genius in the selection and application as in the conception and expression of the idea. His ingenuity was very great. He had the faculty of seeing remote analogies and correspondences, and of accumulating around a dry, isolated and uninviting topic a multitude of images, facts, suggestions and illustrations. His finely-toned and penetrative intellect possessed an acumen, a perspicuity which was as quick and vivid as lightning. His mind, as by an instinctive insight, darted at once upon the core of the subject, and sprang, with an electric leap, upon the conclusion. He started where most reasoners end."

Randolph had a short, small body, perched upon high, crane legs, so that when he stood up you did not know where he was to end; yet he commanded the attention of Congress, in spite of his gaunt figure and his ear-splitting scream. Boswell, who heard him speak at York in 1784, wrote a friend:

"I saw what seemed a mere *shrimp* mount upon the table; but as I listened, he grew and grew until the shrimp became a whale."

It was readiness which made Randolph so terrible in retort. No hyperbole of contempt or scorn could be launched against him but he could overtop it with something more scornful and contemptuous. Opposition only maddened him into more bitterness.

"Isn't it a shame, Mr. President," said he one day in the Senate, "that noble bull-dogs of the administration should be wasting their precious time in worrying the rats of the opposition?"

Immediately the Senate was in an uproar, and he was clamorously called to order. The presiding officer, however, sustained him; and, pointing his long finger at his opponents, Randolph screamed out:

"Rats, did I say? — mice, mice!"

"I never give the wall to a blackguard," said a political opponent to Randolph.

"I always do," said Randolph, as he took the gutter side.

When Randolph was a member of Congress he boarded in Georgetown, and generally rode over to the capitol, though he sometimes walked. On a keen, frosty morning, while walking across the Rock Creek bridge, he caught up to a gentleman, who, having a speaking acquaintance with Randolph, proceeded over the bridge with him. Randolph had very long legs, and even in his ordinary gait was a fast walker. With some difficulty the gentleman kept up with him, and, saluting, said:

"Good morning, Mr. Randolph; you are walking fast this morning."

"Yes, sir, and I can walk still faster;" which he at once did, leaving the gentleman far behind to ruminate on the politeness of statesmen.

Randolph, while making many others the victims of his ill-natured sarcasm, occasionally found himself the sufferer. Traveling through a part of Virginia strange to him, he stopped for the night at an inn near the forks of the road. The innkeeper was a gentleman by birth, and, learning who his distinguished guest was, sought to draw him into conversation during the evening, but failed. In the morning Randolph paid his bill. The landlord, still anxious for some conversation, said:

"Which way are you traveling, Mr. Randolph?"

"Sir?" rejoined Randolph, surlily.

"I asked which way are you traveling?"

"Have I paid you my bill?"

"Yes."

"Do I owe you anything?"

"No."

"Well, I am going just where I please; do you understand?"

"Yes, I understand."

Randolph drove off, leaving the landlord somewhat flurried by his ill-temper; but in a few moments one of the servants came back to inquire which one of the forks of the road the traveler should take. Randolph was yet within hearing-distance, and the landlord shouted to him at the top of his voice:

"Mr. Randolph, you don't owe me one cent; just take which road you please."

The story of the duel between Henry Clay and Randolph is familiar to most persons; not so their subsequent reconciliation, and the manner of its accomplishment. It took place many years after the hostile meeting. In regard to it Clay wrote to a friend, in the year preceding Randolph's death: "You ask how amity was restored between Mr. Randolph and me. There was no explanation, no intervention. Observing him in the Senate one night, looking as if he was not long for this world, and being myself engaged in a work of peace, with corresponding feelings, I shook hands with him. The salutation was cordial on both sides. I afterward left my card at his lodgings, where I understood he had been confined by sickness."

In the last public speech that Randolph made, after dwelling on the threatening danger of disunion, he is reported to have said: "There is one man, and one man

only, who can save the Union — that is Henry Clay. I know he has the power; I believe he will be found to have the patriotism and firmness equal to the occasion."

The cause of the duel between these distinguished men was the following insulting language used by Randolph toward Clay in a session of the Senate in 1825: "This man — (mankind, I crave your pardon) — this worm — (little animals, forgive this insult) — was spit out of the womb of weakness — was raised to a higher life than he was born to, for he was raised to the society of blackguards. Some fortune — kind to him — cruel to us — has tossed him to the secretaryship of the state. Contempt has the property of descending, but she stoops far short of him. She would die before she would reach him; he dwells below her fall. I would hate him if I did not despise him. It is not what he is, but where he is, that puts my thoughts in action. This alphabet which writes the name of Thersites, of blackguard, of squalidity, refuses her letters for him. That mind which thinks on what it cannot express can scarcely think on him. A hyperbole for meanness would be an ellipsis for Clay."

Once after Randolph had been speaking in Congress, several members rose in succession and attacked him. His reply was as witty as it was prompt. "Sir," said he to the speaker, "I am in the condition of old Lear —

> The little dogs and all,
> Tray, Blanche, and Sweetheart,
> See — they bark at me."

Receipt. — The judgment of Dunnigan against O'Flaherty had been paid in open court, but the defendant still lingered with a dissatisfied expression on his face. Noticing this, the judge asked:

"What are you waiting for, Mr. O'Flaherty?"

"Oi'm waitin' for me resate."

"But the judgment has been marked satisfied, and that is much better than a receipt."

"Oi want a resate," obstinately repeated O'Flaherty.

"See here, O'Flaherty, what do you mean by this obstinacy?" demanded the judge.

"Yer 'anner an' mesilf 'll be dyin' some of these days," explained O'Flaherty, "an' whin oi come to the gate Saint Pether 'll be afther axin', 'Did yez pay thot Dunnigan?' An' oi'll say, 'Yes, oi did thot.' An' Saint Pether'll say, 'Where's the resate?' An' oi'll say, 'Ut's sathisfied on the *record*, an' oi have no resate.' An' thin Saint Pether 'll say: 'Go an' get a resate. Yez can't get in here widout wan.' An', yer 'anner, ut's all over purgathory oi'll have to be afther trampin' to find yer 'anner an' git a resate."

Redesdale, Lord.—"Redesdale," writes Barrington, in his *Personal Sketches*, "was much (though unintentionally) annoyed by Mr. Toler (Lord Norbury) at one of the first dinners he gave as Lord Chancellor of Ireland to the judges and king's counsel. Having heard that the members of the Irish bar were considered extremely witty, and being desirous of adapting himself to their habits, his lordship got together some of the best bar remarks to repeat to his company as occasion might offer, and, if he could not be humorous, determined at least to be entertaining.

"The first of his lordship's observations after dinner was the telling us that he had been a Welsh judge, and had found great difficulty in pronouncing the double consonants in the Welsh proper names. 'After much trial,' continued his lordship, 'I found that the difficulty was mastered by moving the tongue alternately from one dog-tooth to the other.' Toler seemed quite delighted

with this discovery, and requested to know his lordship's dentist, as he had lost one of his dog-teeth, and would immediately get another in place of it. This went off flatly enough, no laugh being gained on either side. Lord Redesdale's next remark was that when he was a lad cock-fighting was the fashion, and that both ladies and gentlemen went full dressed to the cockpit, the ladies being in hoops. 'I see now, my lord,' said Toler, 'it was then that the term "cock-a-hoop" was invented.' A general laugh now burst forth which rather discomposed the learned chancellor. He sat for a while silent until skating became a subject of conversation, when his lordship rallied, and, with an air of triumph, said that in his boyhood all danger was avoided, for before they began to skate they always put down bladders under their arms, and so if the ice happened to break they were buoyant and secure. 'Ay, my lord,' said Toler, 'that's what we call blatheram skate (an Irish vulgar idiom for 'nonsense') in Ireland.'

"His lordship did not understand this sort of thing at all, and, though extremely courteous, seemed to wish us all to our respective homes. Having failed with Toler, in order to say a civil thing or two, he addressed himself to Garret O'Farrell, a jolly Irish barrister, who always carried a parcel of coarse national humors about with him — a broad, squat, ruddy-faced fellow, with a great aquiline nose and a humorous eye. Independent in mind, he generally said whatever was uppermost. 'Mr. Garret O'Farrell,' said the chancellor, solemnly, 'I believe your name and family were very respectable and numerous in County Wicklow; I think I was introduced to several of them during my late tour there.' 'Yes, my lord,' said O'Farrell, 'we were very numerous, but so many of us have been lately hanged for sheep-stealing that the name is getting rather scarce in that county.'

"The chancellor said no more, and, so far as respect for a new chancellor admitted, we got into our line of conversation without his assistance. Redesdale began by degrees to understand some jokes a few minutes after they were uttered, and at the breaking-up his impression was that we were a pleasant though not a very comprehensible race."

Reed, Thomas B.— Reed, of Maine, famous as lawyer and statesman, possesses a fanciful humor and a wit of rare brightness. Despising cant, hypocrisy and sham, he has unflinchingly stood for right and justice. His counting of a quorum in the Fifty-first Congress is a brilliant setting to his fame. On that occasion, McCreary, of Kentucky, in the midst of a mob-like demonstration, shouted on the Democratic side:

"I deny your right, Mr. Speaker, to count me as present."

Reed like a shot replied:

"The Chair is merely making a statement of the fact that the gentleman is present. Does he deny it?"

This crushing reply of common sense to the flimsy reason of antiquated custom was unanswerable.

In the gem of magazines — Ainslee's — Mr. L. A. Cooldige says of Reed:

With a single exception, Reed is the only statesman with a profound and abounding gift of humor and an irrepressible propensity for epigram who has ever advanced so far in political favor in the United States. There have been times when it was doubtful whether he was better known for his statesmanship and his force of will and intellect, or for the wit and sarcasm which illuminate almost everything he says. In one with less profound political sense this would be fatal to high political

preferment; but with Reed, as with Franklin, the play of fanciful humor goes hand in hand with power of reason and helps to emphasize and popularize it. Many of his sayings have become classic.

When was ever a great truth more compactly and wittily put than when Reed defined a statesman as a "successful politician who is dead?"

Who ever gained a standing in the House as an effective debater more justly than Reed when in the course of his maiden speech he completed the demolition of the argument of a preceding speaker with the famous sentence, "And now, having embalmed that fly in the liquid amber of my remarks, I will proceed?"

A book might be compiled consisting entirely of the wise and witty sayings of Reed. There is a well-known fling at Springer of Illinois, who, with great impressiveness, announced in a debate in the House that he would rather be right than President, and Reed, standing in the middle aisle, apparently paying no attention to what was going on, flashed out, "The gentleman need not be alarmed, he will never be either." There is that other remark about Springer, that "he never opened his mouth without substracting from the sum of human knowledge." And there is the bitter comment on President Harrison, explaining why he had no reason to favor the Harrison administration, "So far as I know, I have but two enemies in the state of Maine. One of them the President appointed collector at Portland, the other he pardoned out of the penitentiary."

One of Reed's most effective weapons in debate, wherein for years he has been easily master of the House, has been his swift and unerring wit, and yet his wit is so subordinated to the greater ends he has in view that it is remembered only for the light it sheds upon his argument.

On one occasion a new member, being asked to deliver a eulogy upon a deceased colleague whom he had never known, sought out the Speaker in great trepidation of mind.

"Mr. Speaker," he said, "I did not know X——; you did. Please tell me what I had better say about him."

"Say," drawled Reed, the humorous expression so characteristic of him sparkling in his eyes, "say anything except the truth."

At the Underwriters' dinner given in his honor in New York, Reed was speaking of the Kaiser's latest speech, in which he used the personal pronoun "I" ten times in ten lines. After quoting the speech, Reed remarked dryly: "And then he went out and ordered a new crown nineteen feet in diameter."

At a dinner given by Mr. Kerens, of St. Louis, Reed, in relating some incidents in his early career at the bar, said: "How well I remember the first fee I received: twenty-five dollars in coin, and how proud I was as I jingled it in my pocket. I received it for defending a Mexican charged with murder.

"I think, as I look back on that day when I jingled that gold money in my pocket, my very own money, and the first that I ever earned at law, that it was the proudest and happiest moment of my life."

There was a silence around the table, in order to give Reed a few moments of reverie. Then the silence was broken abruptly by Kerens:

"But you haven't told us what became of the Mexican whose life you were defending."

"Oh, that," said Reed, with a drawl, "is another story."

During the Fifty-first Congress, when Reed was Speaker and Czar of the House of Representatives, a gentleman

and his bright little son were in the gallery of the House.

"Who are all these men down there?" asked the little fellow.

"Those are the speakers of the House of Representatives, my son."

"And who is that big stout man in the chair under the American flag?"

"That is the House of Representatives."

Repartee and Retort, Attorneys'.— Notable examples of repartee and retort are found in the annals of the bar. A barrister, noticing that the court had gone asleep, stopped short in the middle of his speech. The sudden silence awoke the judges, and the lawyer gravely resumed:

"As I remarked yesterday, my lords —"

The puzzled judges stared at each other as though they half believed they had been asleep since the previous day.

Rufus A. Lockwood — an erratic genius — was a shining light of rarest brilliancy in the early mining days of California. During the trial of an important case, involving water-lot titles in San Francisco, having asserted as a legal proposition that under certain conditions an easement might be extinguished by change of the fee, Isaac E. Holmes, one of the opposing counsel, interrupted him:

"Do you state that as law, Mr. Lockwood?"

"Yes, I state it as law, and I have tried and gained an important case upon that principle."

Holmes retorted: "That case has not been reported, I fancy. It is not in the books, is it? It is Hoosier law, I presume?"

"No, sir, the case is not in the books which the gentle-

man has read. It was tried before an Indiana court, at an Indiana bar — a court and bar on which the gentleman's transcendent ability would reflect no credit."

Justice Wills was in the habit of interrupting counsel. A lawyer who was thus annoyed said to him:

"Your lordship is even a greater man than your father. The Chief Baron used to understand me after I had done, but your lordship understands me before I begin."

Hon. George F. Hoar's wit is finely shown in the following illustration: A certain senator (call him Bagley) was a constant talker, and talked so much that he did not say anything. Someone remarked to Hoar that he did not know why Bagley talked so much, to which Hoar replied:

"Bagley talks to rest his mind."

The prosecuting attorney of a Missouri county and a young man noted for his persistence were engaged in the preliminary hearing of a criminal case before a justice of the peace. The young attorney asked many irrelevant and incompetent questions, and, when the prosecuting attorney would object, would always say:

"Your honor, before you pass on that objection I want to argue it."

Finally, the young man having asked the same question the seventh time against the prosecuting attorney's objection, the prosecutor, losing his patience, said in a loud aside:

"——, are you never going to get over being a confounded fool?"

With his persistent force of habit the young attorney jumped up and remarked:

"Your honor, before you pass on that I want to argue it."

Judge Clayton was an honest man, but not a profound lawyer. Soon after he was raised to the Irish bench he happened to dine in company with Counselor Harwood, celebrated for his fine brogue, his humor and his legal knowledge. Clayton began to make some observations on the laws of Ireland:

"In my country (England) the laws are numerous, but then one is always found to be a key to the other. In Ireland it is just the contrary; your laws so perpetually clash with one another, and are so very contradictory, that I protest I *don't* understand them."

"Truly, my lord," cried Harwood, "*that is what we all say.*"

Sergeant K——, having made two or three mistakes while conducting a cause, petulantly exclaimed: "I seem to be inoculated with dullness to-day."

"Inoculated?" said Erskine, "I thought you had it in the natural way."

Attorney Crowle, who had acted as counsel for Sir George Vendepeet in an election scrutiny in 1751, was charged with having wilfully protracted the scrutiny, and with showing contempt to the House by calling its orders *brutum fulmen.* He was brought before the bar of the House, and was reprimanded on his knees by the Speaker. As he arose he wiped his knees with his handkerchief, and coolly said "it was the dirtiest house he had ever been in." Walpole, in his Memories of George II, vouches for the truth of this story. While on a circuit Crowle was asked if the judge was not just behind. He replied: "I don't know; but he never was *just* before.

A lawyer was cross-examining a virago while her husband sat beside her, sheepishly listening. The lawyer was

pressing a question urgently, when she said, with fire flashing from her eyes:

"You needn't think to catch *me*."

"Madame, I have not the slightest desire to catch you, and your husbands looks as if he was sorry he did."

One of the witty and brilliant men at the Philadelphia bar was the late George W. Barton, who once occupied a seat on the bench. Trying a case before a judge chiefly remarkable for obtuseness, he took occasion to say that he had often seen a great ass in judicial robes.

"You speak from experience?" was the angry retort.

"Not at all," replied Barton, "I am speaking directly from observation."

George Bennett, crown prosecutor on the Munster circuit, raised a laugh at a medical witness, in a case of death, by his interrogation:

"Well, doctor, you attended the deceased?"

"Yes."

"And he died accordingly?"

Lord Young, of the Court of Session, Scotland, was a very impatient judge. In a civil case being tried before him, Mr. Gloag, an eminent advocate, appeared for the prisoner, and proceeded to lay the evidence before the court. The first witness was called, and a few preliminary questions were put and answered without interruption. Suddenly the judge roused himself and took the examination-in-chief into his own hands. Gloag, who had a lively and proper sense of his own importance, courteously endeavored to assert his rights, but the judicial examiner remained master of the field. When he had extracted by a number of skillful questions everything that the witness had to say, Lord Young looked

down to the advocate with a complacent smile. Gloag had resumed his seat, and made no motion to rise.

"Now, then, Mr. Gloag," interjected the judge, sharply, "let us get on."

"I am waiting for your lordship to call the next witness."

A wit was once arguing a case before an appellate court of New York, the chief justice of which was reputed to be a dabbler in stocks on margins. The lawyer conceived that his argument was not attentively listened to, and when he closed he walked out of court, muttering audibly:

"I'll never argue another cause here until there's a bull market."

An Irish counselor, explaining the loss of a cause he had tried before three judges — one of eminent judicial learning, the other two light-weights — said:

"How could I help losing it with a hundred judges on the bench?"

"A hundred!" exclaimed a friend.

"Yes, a hundred — one and two ciphers."

A bright lawyer was seated with a group of friends, discussing in a desultory way the leading topics of the day. One of the parties persisted in monopolizing more than his share of the conversation, and his views did not at all accord with those of the lawyer. As the men separated, one of them said to the lawyer:

"That ——— knows a good deal, doesn't he?"

"Yes, he knows entirely too much for one man; he ought to be incorporated."

As a young lawyer in his early professional career at Portland, Maine, Thomas B. Reed displayed the same qualities of ability and aggressiveness which have been

characteristic of his political life. One of the strongest men at the Portland bar at the time was A. A. Strout.

Before beginning a trial it was Strout's habit to inquire of every juror as to the state of his health, and impress each with the idea that the lawyer was solicitous of that juror's personal welfare.

Reed and Strout were constantly antagonizing each other, though they were very good friends. In nearly every case of importance, Strout and Reed were on opposite sides.

It was annoying, indeed, for the suave Strout to hear Reed drawl out before the opening of a case:

"Well, your honor, brother Strout having finished his morning task of shaking hands with the jury, we may now, I hope, proceed with the business of the court."

When the late Judge Turner, of the Supreme Court of Vermont, was practicing at the bar, he happened, while arguing a question of some difficulty, to illustrate a point in his case by pretty free use of the vocabulary of the card-table. The presiding judge abruptly inquired what he meant by addressing such language to the court.

"I meant, your honor, to be *understood*."

On another occasion a judge, vexed with the difficulty or irritated by the insignificance of a cause which Turner was conducting, cried out:

"Sir, why do you bring such a case as this into court?"

"Because, your honor, we don't choose that *honest* men should have anything to do with it."

A pompous Chicago lawyer, in the midst of his argument, remarked: "Gentlemen of the jury, I once sat on the bench in Iowa." "Where was the judge?" inquired the opposing attorney, and the argument of the pompous gentleman went to pieces right there.

Counselor Plunket's reply to a testy and irritable judge, who threatened to fine him a hundred pounds if he did not stop coughing: "I'll give your lordship two hundred if you can stop it for me."

Repartee and Retort, Judges'.—When the bench swings a sharp blade we join with delight in the cutting. Even the tipstaff laughs immoderately and forgets to cry "Silence!"

Men who have worn the judicial ermine generally have certain privileges in court that the struggling young lawyer would make any sacrifice to obtain. A newly admitted member of the bar made a suggestive remark to ex-Judge Curtis of New York about this, and the old gentleman became very angry. When he gets mad, he lets himself loose. He did so on this occasion, but wound up with:

"I am a fool! I am the biggest fool on earth!"

The youngster attempted to soothe him with the remark:

"Judge, all men are fools at times. I have been a fool myself."

The enraged old lawyer glared at him. "You a fool?" he sneered.

"Yes, and a bigger fool than you, judge."

This caused the judge to tear the little hair left upon his venerable head. "I deny it, sir; it's a lie! You could never be a bigger fool than I. You haven't the capacity, sir; not the capacity!"

The late Judge Test, of Indiana, was presiding at an important trial at Lafayette. Most of the leading attorneys at the bar were in the case and were having a good deal of trouble in securing a jury. A German on the

panel had been accepted. He desired to be released and appealed to the judge to let him off, on the ground, "I no understand good English."

"Tut, tut!" said the judge; "that is no excuse. You will not hear any good English during this trial."

In a case concerning the limits of certain land, the counsel on one side remarked, with exclamatory emphasis, "We lie on this side, my lord;" and the counsel on the other side interposed with equal vehemence, "We lie on this side, my lord." The lord chancellor dryly observed: "If you lie on both sides, whom am I to believe?"

Bompos was earnest, noisy, and often confused in his arguments.

"Is Bompos a sound lawyer?" said a friend to Chief Justice Tindal.

"All sound," replied his honor.

Justice Page, a well-known hanging judge, being asked after his health as he was coming out of the criminal court, answered:

"Pretty well; you see I just keep hanging on — hanging on."

A story is told of one of the judges of the High Court of England and a well-known barrister. During the hearing of a case the judge left his seat to look for a law-book, and for a few minutes was hidden by the screen. Just as he disappeared from view the barrister hurried into court, and, seeing the vacant chair, remarked in a loud tone:

"What — is the old fool gone to luncheon?"

To his chagrin, the judge popped his head round the screen and replied:

"No, he has not gone yet."

Some time before 1870, a gentleman, in the midst of a squabble at a place of public entertainment in Vienna, exclaimed:

"Nonsense! the Emperor is an ass."

He was taken into custody, and brought before the "beak," who said to him:

"The witnesses have clearly proved that you called the Emperor an ass. Have you anything to say in your defence?"

"Certainly. I meant the Emperor Napoleon."

"That is an idle subterfuge! Everybody knows that Napoleon is an intelligent man. We know quite well you meant His Majesty, the Emperor of Austria."

A young attorney was making a long, noisy argument before Judge Stein, of Chicago. The judge was visibly bored, and spectators watched curiously for an outburst. But the lawyer did not see the ever-increasing signs of displeasure.

"There can be no two sides to this case!" shouted the attorney. "Before I am through I intend —"

"You're through now," suddenly exclaimed the judge, rising and waiving the speaker to his seat with a dark frown. And there the case ended.

Justice Dillard, of the Supreme Court of North Carolina, is an example of personal independence. Judge Kerr, seeing Dillard in a second-class car, called out:

"How comes it a man of your cloth is caught in a second-class car?"

"Because there is no third-class."

An episode in the professional career of an eminent jurist of Pennsylvania, late a judge of the Supreme Court, deserves to be rescued from oblivion. Soon after his admission to the bar, he had occasion to go to Williamsport

to argue his first case. As he was pacing the deck of the canal-boat on which he was journeying, he encountered a group of three substantial, rustic-looking persons, who were deeply engaged in discussing the merits of an important law-suit which had recently been tried. Fresh from the study of Blackstone, and believing himself to be the embodiment of legal learning and the incarnation of judicial science, he joined the group, and straightway proceeded to enlighten the party as to the law bearing on the case. The opinions which had been advanced he dogmatically pronounced to be erroneous, and contrary to law, reason and precedent. His auditors listened with profound attention until he had finished his harangue, when one of them quietly informed the speaker that, from his discourse, it was evident he was ignorant of every principle of law — civil, common and statute, written or unwritten. A second added that he knew nothing of the rules of logic, as was apparent from his defective style of reasoning. The third listener stated it as his conviction that the intruder was also destitute of common sense. Exasperated by such uncomplimentary remarks, the legal aspirant abruptly left the group, and resumed his promenade on the deck of the boat. Chancing to meet the skipper, he inquired if he knew those three old chaps who were talking together; adding, with considerable asperity, that they were the most stupid set of blockheads that ever lived.

"Those three old chaps, Mr. K——," responded the ancient mariner, "are the judges of the Supreme Court, on their way to Williamsport, where the court opens to-morrow."

Mr. K—— did not make his *debut* in the Supreme Court at that session, but postponed his appearance to a more convenient season.

Justice Wightman remarked to a prosy advocate, during a long and weary argument:

"Mr. ——, you have stated that before, but you may have forgotten it; it was a very long time ago."

Justice Day, in the Queen's Bench Division, had a case before him of some duration and many technicalities. Towards the conclusion of a long speech, counsel said, and the saying may be taken as a specimen of what preceded it:

"Then, my lord, comes the question of bags; they might have been full bags or half-full bags; or, again, my lord, they might have been empty bags."

"Or," interrupted the sorely tried judge, "they might have been wind bags."

An incident illustrates the gruff nature of some of our judges.

"A pleasant day, judge," said a courteous member of the bar.

No reply.

"A very pleasant day," repeated the attorney.

"Well, do you want to argue it?" snapped the judge.

Judge Bumblethorpe had been trespassing over a clover-field, and escaped with his life from a mad charge of a bull by a swift run and a wild somersault over a fence. And then it was the judge who was infuriated. From the safe side of the fence he stormed and raged at the bull, and, seeing a farm house not far away, he stalked over to it. The farmer was choring around the barn when the judge rushed up to him.

"Is that your bull over there, sir?" exclaimed the judge.

"Wal, I guess 'tis."

"Well, sir, do you know what it's been doing?"

"Chasin' ye, mebbe."

"Yes, sir, chasing me; and it is an outrage that I will not tolerate — an outrage, I tell you, that I should be pursued and humiliated in this way."

"Wal, it's a thing that bulls will do; he can't help it, ye know."

"Help it!" said the judge, black with indignation, "do you know who I am?"

"No, I don't."

"Well, sir, I am Judge Bumblethorpe."

"Is — that — so?" said the farmer, with great deliberation; "is — that — so? Why in thunder didn't ye tell the bull, jedge?"

Lord Plunket had a son in the church at the time the Tithe Corporation Act was passed, and warmly supported the measure. Some one observed, "I wonder how it is that so sensible a man as Plunket *cannot see* the imperfections in the Tithe Corporation Act."

"The reason's plain enough," said Norbury; "he has *the sun* (son) *in his eye*."

Judge Rombauer one day made a ruling against a young attorney, whose superfluity of diplomas was only equaled by his scant knowledge of law, and the latter, much disgusted, said:

"I don't know where your honor goes to find such law as that."

"I am not surprised, Mr. ——, zat you know not where I go to find ze law, for I find it in ze books."

When Judge Thacher, of Maine, was prominent at the bar, he and the attorney-general were on opposite sides of an exciting trial. The latter, in the heat of dispute, said:

"You are no gentleman, sir."

"I admit, Mr. Attorney-General, I *am* no gentleman."

Judge (a venerable man, archly): "Well, gentlemen, I think you needn't go to the jury about *that!*"

When the establishment of the mint was under discussion, there were some amusing debates in Congress concerning the devices the coins should bear. A member of the House from the South bitterly opposed the choice of the eagle, on the ground of its being the "king of birds," and hence neither proper nor suitable to represent a nation whose institutions and interests were wholly inimical to monarchical forms of government. Judge Thacher in reply playfully suggested that perhaps a goose might suit the gentlemen, as it was rather a humble and republican bird, and would also be serviceable in other respects, as the goslings would answer to place upon the dimes.

This reply created considerable merriment, and the irate Southerner, considering the humorous rejoinder an insult, sent a challenge to the judge, who promptly declined it. The bearer, rather astonished, asked, "Will you be branded as a coward?"

"Certainly, if he pleases," replied Thacher. "I always was one, and he knew it, or he would never have risked a challenge."

Not even the occupants of the Bench in Ireland are free from that proneness to make "bulls" which is one of the curious mental characteristics of the Irish people.

"Are you married?" asked a magistrate in the Dublin police court of a prisoner who was charged with having committed an unprovoked assault on another man.

"No, your worship," replied the man in the dock.

"That's a good thing for your wife," said the magistrate.

A witness giving evidence in a case tried at the Limerick

Assizes used the expression, very common in Ireland, "I said to myself," so frequently that the judge interposed with the remark:

"You must not tell us what you said to yourself, unless the prisoner was by. It is not evidence."

Repartee and Retort, Witnesses'.—When a witness occasionally turns the tables on a lawyer, the latter's discomfiture is enjoyed even by his friends.

One of the very best things ever said by a witness to a counsel was the reply given to Missing, the barrister, at the time leader of his circuit. He was defending a prisoner charged with stealing a donkey. The prosecutor had left the animal tied up to a gate, and when he returned it was gone. Missing was very severe in his examination of the witness:

"Do you mean to say the donkey was stolen from that gate?"

"I mean to say, sir, that the ass was Missing."

"Remember, witness," exclaimed the attorney for the defence, "you are on oath."

"There ain't no danger of my forgettin' it," replied the witness, sullenly, "I'm tellin' the truth for nothin' when I could have made fifteen shillings by lyin' for your side of the case, and you know it."

When Burton, the actor, was in "trouble," a young lawyer was examining him as to how he had spent his money. There were three thousand pounds unaccounted for. The attorney, putting on a severe, scrutinizing face, exclaimed, with much self-complacency:

"Now, sir, I want you to tell this court and jury how you used those three thousand pounds?"

"*The lawyers got that!*" was Burton's quick reply.

The judge and audience were convulsed with laughter. The counselor was glad to let the comedian go.

Rees, the mimic, once appeared in the Court of King's Bench, as bail for a friend. Justice Garrow asked him whether he was not an imitator.

"So they tell me."

"Tell you! You know it, sir. Are you not in the habit of taking people off?" said the judge.

"Oh, yes, and I shall take myself off the moment your lordship has done with me!"

Counsel, to prisoner: "Well, after the witness gave you a blow, what happened?"

"He gave me a third one."

"You mean a second one."

"No, sir; I landed him the second one."

The offensively familiar witness is a sore trial. The dignity and the erudition of the most eminent counsel are thrown away on him. In an important case in an English chancery court a loquacious witness was asked:

"What sort of a man was he?"

The reply came swiftly:

"Just an under-sized, red-faced chap like yourself."

"One more question," said the counsel. "Has not an attempt been made to induce you to tell the court and jury a different story?"

"Yes, sir; I guess you've tried 'bout as hard as any of 'em."

Lawyer (fiercely): "Are you telling the truth?"

Badgered witness (wearily): "As much of it as you will let me."

A bullying barrister would make a butt of a Yorkshire farmer:

"Well, Farmer Numskull, how goes calves at York?"
"Why not, sir, as they do wi' you,
But on four legs instead of two."
"Officer!" cried the legal elf,
Piqued at the laugh against himself,
"Do pray keep silence down below there!
Now look at me, clown, and attend;
Have I not seen you somewhere, friend?"
"Yees, very like; I often go there."
"The rustic 's waggish — quite laconical,"
The counsel cried, with grin sardonical;
"I wish I'd known this prodigy,
This genius of the clods, when I
On circuit was at York residing.
But, Farmer, do for once speak true.
Mind, you're on oath; so tell me, you
Who, doubtless, think yourself *so* clever,
Are there as many fools as ever
In the West Riding?"
"Why, no, sir, no; we've got our share,
But not *so* many as when you were there."

— *Horace Smith.*

During a trial, counsel, in cross-examining a young physician, made several sarcastic remarks, doubting the ability of so young a man to understand his business. Finally he asked:

"Do you know the symptoms of concussion of the brain?"

"I do," replied the doctor.

"Well," continued the attorney, "suppose my learned friend, Mr. Carter, and myself were to bang our heads together, would we get concussion of the brain?"

"Your learned friend, Mr. Carter, might," said the doctor.

Judge: "And so he called you a scoundrel?"

Prisoner: "He did, sor."

"And did you attempt to defend yourself?"

"Did I? You ought to see Duffy."

"Now, sir," said an attorney, "Do I understand you to say that you were standing within ten feet of the parties when the fight began?"

Witness, to the court: "Must I answer that question?"

The Court: "I see nothing wrong in the question."

Witness, to attorney: "Well, sir, I don't know whether you understand me to say it or not."

Reputation, General.— A humorous story, touching the introduction of testimony affecting "general reputation," is related by a Southwestern judge. In a trial before him to recover the value of harness loaned the defendant, the defendant denied title or possession through plaintiff, and alleged that plaintiff's general reputation for truth was bad. Counsel for defendant, concluding it would be good tactics to first break down the plaintiff's character, called Thomas Jefferson, a colored man, as a witness:

"Mr. Jefferson, do you know the plaintiff?"

"Yes, sah."

"Do you live in the same neighborhood?"

"Yes, sah; we bofe lives in Rock Springs."

"Do you know what kind of character he bears among his neighbors for truth and honesty?"

"He bears the wus kind of character, sah."

"Do you know what the people in that neighborhood generally say of him?"

"Cose I knows what dey say 'bout him, but I ain't come here to tell dat. I come to tell what I knows about him myself."

"No, you are not allowed to tell what you know about

him yourself, but you are only allowed to tell what people say about him."

"You don't mean dat?"

"Yes, that is what I mean."

"Not much; I knows better'n dat myself. I been about court-house too much for you to talk dat way to me."

The court explained the situation to the witness, and he seemed reluctantly reconciled. Examination by counsel then proceeded:

"Do you know the plaintiff's general reputation for truth and honesty in the vicinity in which he lives?"

"Now you wants me to tell what de folks say, and not what I knows myself?"

"Yes."

The witness gave an earnest look at the court, as if asking protection from the outrage, but, finding the court seemingly as bad as the counsel, said:

"Well, I heard Mrs. Smith say dat he was de biggest liar in de world, and dat he stole Mr. Smith's geers out of the butcher-shop, and I knows myself that he stole de geers, 'cause I seen 'im wid 'em."

"That is not an answer to my question. I don't ask you what any one person says, but what the people say."

"Dat is jes what I'm going to tell you, but I got to tell what one say at a time. I can't tell you what dey all say at once. Jerry Gibson told me dat he saw de man—"

"I don't want to know what Jerry Gibson said, nor what Mrs. Smith said, nor what anybody else said. I ask you what the man's general reputation is for truth and honesty, and by that I mean what do all the people say about him?"

"Now, how can I tell you what dey all says about him,

when you won't let me tell you what one of 'em says about him?"

Counsel and witness fenced with each other in this manner for a long time, with no other result than a loss of temper and a strong manifestation of disgust on both sides. At last counsel made an effort at self-control and said:

"Well, Mr. Jefferson, since you and I can't understand each other on that branch of the case, let us leave it and go to the next subject. Now, tell us what you know about this harness?"

"I knows all about dem harness, an' everybody around Rock Springs knows dem harness, and dey all sez de harness belongs by right to de defendant."

"Now, I did not ask you to tell what everybody says about the harness, but only what you knew about it yourself."

"What I knows myself?"

"Yes."

"Why ain't you been beating me down for the last hour to keep me from telling what I knowed myself and to try to make me tell what everybody says? I knowed dey wasn't no sense in dat, and I ain't going to stan' up here and let you make a fool o' me no mo'."

And the witness arose in disgust, walked down from the witness stand and out of the court room. Defendant's counsel never rallied, and the verdict was for the plaintiff.

In the United States Circuit Court, before Judges Sawyer and Hoffman and a jury, in 1873, in the trial of Captain Clarke of the "Sunrise" for cruelty to sailors, the defence called a seaman to testify to the captain's reputation for kindness and humanity. On cross-exami-

nation by General W. H. L. Barnes, the following was elicited:

"Did you ever hear Captain Clarke's reputation for kindness and humanity talked about on the Marv Bentley" (a former vessel of Clarke's)?

"Yes."

"Whom did you hear talk about it?"

"Well, Tom, for one."

"Who was Tom?"

"A sailor. Don't know his full name."

"Did you hear anybody else talk about it?"

"Yes."

"Whom?"

"All the sailors."

"What did they say?"

"When I used to take them grub."

"What did they say?"

"They said it was good."

"What was good?"

"The grub."

Rosekraus, Enoch H.— Judge Rosekraus, one of the keenest wits of the New York bench, loved to tease his dignified brother-in-law, William A. Beach. The latter having made a motion before him, the judge intimated pretty plainly that he thought Beach was wrong. But Beach was not to be put down in this way, and persisted in his argument, citing a decision which he declared was the latest, and to which he said he hoped his honor would yield.

"But there is a later decision the other way," said the judge."

"I am not aware of it," said Beach very stiffly; "where may it be found?"

"It is the one I made in this case about ten minutes ago. Any other motions, gentlemen?"

On another occasion Rosekraus was hearing a criminal prosecution for an assault and battery committed on the day of a political convention in the interest of General McClellan. An old soldier had testified, and on cross-examination was asked if he was attending the convention.

"No, sir," said the witness; "that wasn't my stripe."

Great laughter ensued, and the judge, who also was not of "that stripe," rapped to order, observing with a deprecatory air:

"The witness has a right to exculpate himself."

Russell, Lord.—Russell is an eminent jurist, a famous orator, and a bright wit. When he was still known as Sir Charles Russell, he went to Scotland to help the Liberals in a certain campaign. He purposely began his speech with some very-badly pronounced Scotch. After the confusion caused by his apparent blunder had subsided, he said:

"Gentlemen, I do not speak Scotch, but I vote Scotch —." Tremendous applause followed, whereupon he proceeded, "and I often drink Scotch."

After this he was the hero of the hour.

During his argument in a case involving the application of nice legal principles, Russell was repeatedly annoyed by the interruptions of Sir Digby Seymour, counsel for the other side. At last, losing all patience, he broke out in his strong Irish brogue:

"I wish you wouldn't interrupt so much, Sir Digby Saymour."

"My name is Seymour, not Saymour," answered Sir Digby, sharply.

"Well, then," rejoined Russell, "you should see more and say less."

A young lawyer, making a legal argument and anxious to finish before adjournment of the court, was hurrying along as best he could. Suddenly he spoke of 2 Q. B. D. Russell interrupted him sharply:

"You forget yourself, sir! You forget yourself! That is no way to address this court."

Profuse in his apologies, the young attorney explained that he only meant to refer to 2 Queen's Bench Division of the Law Reports. Russell, refusing to be appeased, said:

"I might as well say to you, U. B. D."

A story credited to Lord Coleridge is also credited in a slightly different form to Russell; and Russell's version is the brighter of the two. When he was visiting this country, he took a stroll along the Potomac river with William M. Evarts, then Secretary of State. Arriving at a special point of interest, Evarts said:

"This is where George Washington threw a dollar across the Potomac."

"Oh," responded Russell, "that must have been an easy task for a man who cast a *sovereign* over the Atlantic."

Russell, years before he took silk, was sitting in court, when another barrister, leaning across the benches during the hearing of a trial for bigamy, whispered, "Russell, what's the extreme penalty for bigamy?"

"Two mothers-in-law."

Saunders, R. M.—The late Judge Saunders, of the Supreme Court of North Carolina, an angler and wag of the first water, told many different stories about the

weight of a big catfish he had caught. A friend, trying to entrap him, said:

"Judge, what was the weight of that big fish you caught?"

The judge, turning to his colored waiter, said:

"Bob, what did I say yesterday that catfish weighed?"

"What time yesterday, boss — in de mawning, at dinner time, or after supper?"

Saxe, John G.— Saxe, of literary fame, was a member of the Vermont bar. His *Briefless Barrister* is a gem in legal literature:

An attorney was taking a turn,
In shabby habiliments drest;
His coat it was shockingly worn,
And the rust had invested his vest.

His breeches had suffered a breach,
His linen and worsted were worse,
He had scarce a whole crown in his hat,
And not half-a-crown in his purse.

And thus as he wandered along,
A cheerless and comfortless elf,
He sought for relief in a song,
Or complainingly talked to himself:

"Unfortunate man that I am!
I've never a client but grief;
The case is, I've no case at all,
And in brief, I've ne'er had a brief!

"I've waited, and waited in vain,
Expecting an opening to find,
Where an honest young lawyer might gain
Some reward for toil of his mind.

"'Tis not that I'm wanting in law,
Or lack an intelligent face,
That others have cases to plead,
While I have to plead for a case!

"O, how can a modest young man
E'er hope for the smallest progression,
The profession's already so full
Of lawyers so full of profession!"

While thus he was strolling around,
His eye accidentally fell
On a very deep hole in the ground,
And he sighed to himself, "It is well!"

To curb his emotions, he sat
On the curb-stone the space of a minute;
Then cried, "Here's an opening at last!"
And in less than a jiffy was in it.

Next morning twelve citizens came
('Twas the coroner bade them attend),
To the end that it might be determined
How the man had determined his end.

"The man was a lawyer, I hear!"
Quoth the foreman who sat on the corse.
"A lawyer? alas!" said another,
"Undoubtedly died of remorse."

A third said "He knew the deceased,
An attorney well versed in the laws;
And as to the cause of his death,
'Twas no doubt for the want of a cause!"

The jury decided at length,
After solemnly weighing the matter,
"That the lawyer was drowned because
He could not keep his head above water."

Quite as interesting is his *Early Rising:*

"God bless the man who first invented sleep!"
So Sancho Panza said, and so say I;
And bless him, also, that he didn't keep
His great discovery to himself, nor try
To make it — as the lucky fellow might —
A close monopoly by patent-right!

Yes; bless the man who first invented sleep,
(I really can't avoid the iteration;)
But blast the man with curses loud and deep,
Whate'er the rascal's name or age or station,
Who first invented, and went round advising,
That artificial cut-off — Early Rising!

"Rise with the lark, and with the lark to bed,"
Observes some solemn, sentimental owl;
Maxims like these are very cheaply said;
But, ere you make yourself a fool or fowl,
Pray just inquire about his rise and fall,
And whether larks have any beds at all!

The time for honest folks to be abed
Is in the morning, if I reason right;
And he who cannot keep his precious head
Upon his pillow till it's fairly light,
And so enjoy his forty morning winks,
Is up to knavery, or else — he drinks!

Thomson, who sang about the "Seasons," said
It was a glorious thing to *rise* in season;
But then he said it — lying — in his bed,
At ten o'clock A. M., — the very reason
He wrote so charmingly. The simple fact is,
His preaching wasn't sanctioned by his practice.

'Tis, doubtless, well to be sometimes awake, —
Awake to duty, and awake to truth, —
But when, alas! a nice review we take
Of our best deeds and days, we find, in sooth,
The hours that leave the slightest cause to weep
Are those we passed in childhood, or asleep!

'Tis beautiful to leave the world awhile
For the soft visions of the gentle night;
And free, at last, from mortal care or guile,
To live as only in the angels' sight,
In sleep's sweet realm so cosily shut in,
Where, at the worst, we only *dream* of sin!

So let us sleep, and give the Maker praise.
I like the lad who, when his father thought
To clip his morning nap by hackneyed phrase
Of vagrant worm by early songster caught,
Cried, "Served him right! — it's not at all surprising;
The worm was punished, sir, for early rising!"

Scott, Sir Walter.— Scott had his share of curious experiences shortly after being called to the bar. His first appearance in a criminal court was at Jedburg assizes, in 1793, when he successfully defended a veteran poacher.

"You're a lucky scoundrel," Scott whispered to his client when the verdict was given.

"I'm just of your mind," returned the latter, "and I'll send you a maukin — a hare — the morn, man."

On another occasion Scott was less successful in his defence of a housebreaker; but the culprit, grateful for his counsel's exertions, gave him, in lieu of the orthodox fee, this piece of advice, to the value of which he (the housebreaker) could professionally attest: First, never to have a large watchdog out of doors, but to keep a little yelping terrier within; and second, to put no trust in nice, clever, gimcrack locks, but to pin his faith to a huge old heavy one with a rusty key. Scott long remembered this incident, and thirty years later, at a judges' dinner at Jedburg, he recalled it in this impromptu rhyme:

"Yelping terrier, rusty key,
Was Walter Scott's best Jedburg fee."

In his school-boy days Scott was far from being a brilliant scholar. He was usually at the head of the other end of his class. After becoming famous, he one day dropped into the old school to visit the scene of his former woes. The teacher, anxious to make a good impression, put the

pupils through their lessons so as to show them to the best advantage.

After a while Scott said: "But which is the dunce? You have one, surely?"

The teacher called up a poor fellow who looked the picture of woe as he bashfully came toward the distinguished visitor.

"Are you the dunce?" asked Scott.

"Yes, sir."

"Well, my good fellow, here is a crown for you for keeping my place warm."

Seal.— Judge Harrington, of Vermont, was famous as the man who would not give up a slave without a title from the "original proprietor." Technical objections did not weigh heavily with the judge, as one Daniel Chipman found in a case of ejectment. Chipman objected to the admission of a deed because it had no seal.

"But your client sold the land, got his pay for it and gave the deed, didn't he?" asked the judge.

"That makes no difference," said Chipman, "the deed has no seal and cannot be admitted."

"Mr. Clerk," said the judge, "give me a wafer and a three-cornered piece of paper."

The clerk obeyed, and the judge deliberately made and affixed the seal.

"There, Brother Chipman," said the judge, "the deed is all right now, and may be put in evidence. A man is not going to be cheated out of his farm in this court because his deed lacks a wafer when there is a whole box of wafers on the clerk's desk."

In *Hopewell v. Amwell*, 6 N. J. L. (1 Halst.) 169, Kirkpatrick, C. J., delivered the opinion of the Supreme Court of New Jersey to the effect that a scroll or scribble, by

way of seal, upon an indenture of apprenticeship, did not make a formal indenture. In the course of the opinion the learned Chief Justice said:

"There has been a good deal of speculation of the courts of some of these states upon this subject. They have investigated, *with profound learning*, the nature, origin and utility of seals, and of what a seal must consist. And some of them have made the *wonderful discovery* that a seal may be not only without any distinct impression, but also without wax, or anything in the nature of wax, in any way susceptible of impression. To have said that sealing should not be necessary to constitute a deed, but that the subscription of the name only should be sufficient for that purpose, would have had some foundation in reason, however little it might have in law, to support it; but to say that a writing is sealed without anything affixed to it in the nature of a seal is a little like Lord Peter's saying that his brown loaf was as fine a leg of mutton as ever came out of the Leadenhall market."

Selden, John.—Selden was an English lawyer of great wisdom and learning.

Equity is a roguish thing; for law we have a measure.

Equity is according to the conscience of him that is chancellor; and as that is longer or narrower, so is equity.

Every man has his religion. We differ about trimming.

Thou little thinkest what a little foolery governs the world.

'Tis not seasonable to call a man a traitor that has an army at his heels.

Sentences.— In sentencing a prisoner convicted of stealing from his employer, Sergeant Arabin thus addressed him:

"Prisoner at the bar, if ever there was a clearer case than this of a man robbing his master, this case is that case."

Having to pass judgment on a middle-aged man, who, convicted upon three indictments, had pleaded guilty to more, Arabin said:

"Prisoner at the bar, you have been found guilty on several indictments, and it is in my power to subject you to transportation for a period very considerably beyond the term of your natural life; but the court, in its mercy, will not go so far as it lawfully might, and the sentence is that you be transported for two periods of seven years each."

In sentencing a man to a comparatively light punishment, he said:

"Prisoner at the bar, there are mitigating circumstances in this case that induce me to take a lenient view of it, and I will therefore give you a chance of redeeming a character that you have irretrievably lost."

One of the ablest judges of New Mexico was the Honorable Kirby Benedict. His death sentence upon Jose Maria Martin is yet regarded in New Mexico as a solemn landmark of judicial reminiscence.

It was early in the sixties in the county of Taos, when a Mexican, Jose Maria Martin, was convicted of murder, and brought into court to receive sentence. The prisoner stood up, and, after the usual questions to him, the judge, prompted by the atrocity of the crime, said:

"Jose Maria Martin, you have been indicted, tried and convicted by a jury of your countrymen of the crime of

murder, and the court is now about to pass upon you the dread sentence of the law. As a usual thing, Jose Maria Martin, it is a painful duty to sentence a man to death; there is something horrid about it, and the mind of the court naturally revolts from the performance of such duty. Happily, however, your case is relieved of all these disagreeable features, and the court takes positive delight in sentencing you to death. You are a young man, Jose Maria Martin, seemingly of good health and strong constitution. Ordinarily you must have looked forward to many years of life — to a green old age,— but you are about to be cut off in consequence of your own act. It is now the springtime, Jose Maria Martin; in a little while the grass will be springing up green on these broad mesas, these beautiful valleys and mountains. Flowers will be blooming, birds will be singing their sweet carols, nature will be putting on her most gorgeous and most attractive robes; life will be pleasant and men will want to stay. But none of this for you, Jose Maria Martin. The flowers will not bloom for you, Jose Maria Martin. The birds will not sing for you, Jose Maria Martin. When these things come to gladden the senses of men, you will be occupying a space about six by two beneath the sod, and the green grass and the beautiful flowers be growing above your lowly head.

"The sentence of the court is that you be taken from this place to the county jail, there to be kept safely and securely confined, in the custody of the sheriff, until the day set for your execution. Be very careful, Mr. Sheriff, that he have no opportunity to escape, and that you have him at the appointed time and at the appointed place — and that you be thus kept until — Mr. Clerk, on what day of the month does Friday, about two weeks from this time, come?

"March 22, your honor.

"Very well, until Friday, the 22d day of March, when you will be taken by the sheriff from your place of confinement to some safe and convenient spot within the county,—that is in your discretion, Mr. Sheriff, you are only confined to the limits of the county,—and that you there be hanged by the neck until you are dead, and—the court was about to add, Jose Maria Martin, 'may God have mercy on your soul,' but the court will not assume the responsibility of asking an All Wise Providence to do that which a jury of your peers has refused to do. The Lord couldn't have mercy on your soul. However, if you have any religious belief, or are connected with any religious organization, it might be well enough for you to send for your priest or your minister, and get from him — well — such consolation as you can; but the court advises you to place no reliance upon anything of that kind.

"Mr. Sheriff, remove the prisoner."

Dr. Jowett, head of Balliol College, Oxford, was discussing with a friend the careers of two successful Balliol men. One of these alumni had just been made a judge, the other a bishop, and Dr. Jowett's friend remarked:

"I think a bishop is a greater man than a judge. A judge, at the most, can only say, 'You be hanged;' but a bishop can say, 'You be damned.'

"Yes," replied the other, "but if the judge says, 'You be hanged,' you *are* hanged."

A Missouri judge, in passing sentence on a colored man convicted of highway robbery, said:

"Jim, stand up! The jury that tried you found you guilty of highway robbery, and assessed your punishment

at fifteen years in the penitentiary. You had a fair trial. The two young lawyers I assigned to you as counsel did everything for you that could be done. Now, I don't say you're guilty. I wouldn't say that. But the circumstances are suspicious. Somebody was robbed on the highway of $70, three twenty-dollar bills and a ten-dollar bill. It was proved you changed two twenty-dollar bills shortly after, and your wife changed another, and you didn't show how you came by these bills. Now, if I had been accused of this offence unjustly, I would have said, why, I got this money from so and so, and then called that person as a witness. But you didn't do that, and your case looks bad. However, if you are innocent, think what a satisfaction it will be to you, as you enter the penitentiary, to feel in your breast that you are an innocent man! And now, let me give you a piece of advice. You have only got a sentence of fifteen years. Had you been a white man, the jury would have given you a much larger sentence. But we white people have compassion on you colored people. We remember your want of education and make allowances for you. My advice is: Behave yourself while you are in the penitentiary. If you do, you will have to serve only eleven years and three months. Think of that. If you do behave, the warden will at the end of that time report to the Governor, and he will pardon you. Mind you, the Governor has no discretion when the warden makes his favorable report. He's got to do it, and I don't suppose the Governor would shirk his duty. Sit down, Jim!"

Judge (to prisoner): "We are now going to read the list of your former convictions."

"In that case, perhaps your worship will allow me to sit down."

Dublin once boasted a magistrate, Justice O'Malley, whose eloquence and erudition made him the pride and delight of the city. "So, sorr," he thundered to an old offender who had often escaped what the judge always spoke of as the 'butt end of the law,' "y' arre about to incur the pinilty of your malefactions. Justice, sorr, may purshue wid a leaden heel, but she smites"—here the quotation eluded him—"she smites"—triumphantly—"she smites wid a cast oiron toe!

Governor Ford used to relate a rich anecdote of one of the early judges of Illinois, but he never named the sensitive and considerate member of the bench. At the court over which this judge presided, a man by the name of Green was convicted of murder, and the judge was obliged to pass sentence of death upon the culprit. Calling on the prisoner to rise, the judge said to him:

"Mr. Green, the jury say you are guilty of murder, and the law says you are to be hung. I want you, and all your friends down on Indian Creek, to know that it is not I who condemn you; it is the jury and the law. Mr. Green, at what time, sir, would you like to be hung; the law allows you time for preparation."

The prisoner replied: "May it please your honor, I am ready at any time; those who kill the body have no power to kill the soul. My preparation is made, and you can fix the time to suit yourself; it is all the same to me, sir."

"Mr. Green," returned the judge, "it is a very serious matter to be hung; it can't happen to a man but once in his life, unless the rope should break before his neck is broke; and you had better take all the time you can get. Mr. Clerk, since it makes no difference to Mr. Green when he is hung, just look into the almanac, and see whether this day four weeks comes on Sunday."

The clerk looked as he was directed, and reported that that day four weeks came on Thursday.

"Then," said the judge, "Mr. Green, if you please, you will be hung this day four weeks at twelve o'clock."

The attorney-general, James Turney, here interposed: "May it please the court, on occasions of this sort, it is usual to pronounce a formal sentence, to remind the prisoner of his perilous condition, to reprove him for his guilt, and to warn him against the judgment in the world to come."

"Oh, Mr. Turney," said the judge, "Mr. Green understands the whole matter; he knows he has got to be hung. You understand it, Mr. Green, don't you?"

"Certainly," said the prisoner.

"Mr. Sheriff, adjourn the court."

Four weeks from that day Mr. Green was hung, but not so much to his own satisfaction as his appearance promised on the day of his conviction.

Judge (to prisoner about to be sentenced): "You have been convicted several times before, haven't you?"

"Yes, your honor, but I've been acquitted several times, too."

A venerable and benevolent judge in Paris, at the moment of passing sentence on a prisoner, consulted his associates as to the proper penalty to be inflicted.

"What ought we to give this rascal, brother?"

"I should say three years."

"What is your opinion, brother?"

"I should give him about four years."

The judge, with benevolence: "Prisoner, not desiring to give you a long and severe term of imprisonment, as I should have done if left to myself, I have consulted my learned brothers, and I shall take their advice. Seven years!"

"Prisoner," said a judge in passing sentence, "not only have you committed murder, but you have run a bayonet through the breeches of one of Her Majesty's uniforms."

Justice Maule once addressed a defendant, in the presence of the jury which had convicted him:

"Prisoner at the bar, your counsel thinks you innocent; I think you innocent; but a jury of your own countrymen, in the exercise of such common sense as they possess, which does not appear to be much, have found you guilty, and it remains that I should pass upon you the sentence of the law. That sentence is, that you be kept in imprisonment for one day, and as that day was yesterday, you may go about your business."

A tender-hearted Southern judge, seeing that the evidence in a murder case was going strongly against a young man, and dreading to pronounce the sentence which seemed inevitable, left the court room under some pretext, returning presently fortified with several strong drinks.

When the jury, greatly to the surprise of every one, brought in a verdict of "Not guilty," the judge was slumbering on the bench and had to be aroused to hear the decision.

Utterly unable, in the bewildered state of his brain, to take in the unexpected result, the old man said, solemnly, brushing an imaginary insect from his nose, as was his custom under the influence of strong spirits:

"Jones, it now becomes my painful duty—"

"Your honor—" put in one of the jury.

"Mr. Moriarity," said the judge, "you must not interrupt the court."

"Mr. Jones," continued the judge, turning to the prisoner, "I knew your father, sir, an eminently good citizen,

who little thought his son would end his life on the gallows, for you are to be hanged by the neck, sir, until—"

"Your honor," said Moriarity again, almost imploringly, "permit me to explain—"

"Mr. Moriarity," replied the judge, rather warmly, "I insist that you do not interrupt me again" (striking at the imaginary insect) "while I am performing the most solemn duty of my official life. Mr. Jones" (again addressing the prisoner), "I know, sir, that this sentence, which I feel constrained to pronounce, is breaking the heart of your poor old mother" (pointing unwittingly to the widow of the murdered man—looking daggers at the jury), "and sir, bringing her grey hairs in sorrow to the grave. For you are to be hanged, sir—to be—"

"Judge!" shouted Moriarity, in desperation, unable to contain himself any longer, "you are making a fool of yourself; the jury has brought in a verdict of 'Not guilty!'"

Mr. Justice Ridley, a brother of Sir Matthew White Ridley, the British Home Secretary, is the victim of a good story. While trying a case at an Assizes in the North of England, his lordship, before passing sentence, was reading over the list of previous convictions against the prisoner; and he was surprised to find that he himself had only recently sentenced the man in the dock to five years' penal servitude. Ridley thought there must be some mistake. On his asking how it was that the ex-convict was at large again so soon, the prisoner replied, "I was released by your brother," and then added with emphasis, "It was a werry improper sentence."

Justice Graham, one of the most affable judges that ever adorned the bench, having hastily condemned a man, who had been capitally convicted, to transportation, the

clerk of the court in a whisper set him right. "Oh," he exclaimed. "Criminal! I beg your pardon, come back," and, putting on the black cap, apologized for his mistake, and then consigned him to the gallows, to be hanged by the neck until he was dead. To one guilty of burglary, or a similar offence, he would say, "My honest friend, you are found guilty of felony, for which it is my painful duty," etc. Among other peculiarities, he had a custom of repeating the answer made to him, as illustrated in the following dialogue: "My good friend, you are charged with murder; what have you to observe on the subject? Eh, how did it happen?" "Why, my lord, Jem aggravated me, and swore as how he'd knock the breath out of my body." "Good, he'd knock the breath out of your body; and what did you reply?" "Nothing; I floored him." "Good; and then?" "Why, then, my lord, they took him up and found that his head was cut open." "His head was cut open; good; and what followed?" "After that, my lord, they gathered him up to take him to the hospital, but he died on the road." "He died on the road; very good."

The golden rule shines like a gem in this little masterpiece:

Judge: "Prisoner at the bar, have you anything further to state in your defence?"

"No, my lord; just deal with me as you would with yourself if you were in my place."

Rather a good story used to be told by Justice Porter, the well-known legal *bon vivant* of Dublin. It concerns a rare old Irish judge on the Northwest Circuit, who loved the hunting-field more than he did the stupid, sleepy court room. His clerk was like minded, and a joyous pair they made.

One fine morning the clerk whispered to the judge:

"Yer honor, old Billy Duane's meet's to-day at Ballykill-mulligan, an' they've a fine dog-fox."

"How many's on the dock?" asked the judge, excitedly.

"Twenty, for rioting and breach of peace, your honor."

"Tim," said the judge, "do you think you can get the first fellow to plead guilty without a jury trial, and me to let him off with a week in gaol?"

"The easiest thing in the world," answered the faithful clerk.

"Make haste, then, and bring the whole gang; and, I say, Tim, tell Jerry to saddle the mare meanwhile."

The twenty Fenians were brought into court — a defiant gang, nineteen of them prepared to fight with counsel and jury to the bitter end. The twentieth had been interviewed by the clerk. He was called.

"Guilty or not guilty of the crimes charged?" demanded the judge, with a propitious smile.

"Guilty, yer honor," said the crafty prisoner.

"Well," said the judge, glancing benevolently about the room, "I fancy I can let you off with a week."

The man thanked the judge and stepped down to the bailiff. There was a terrific sensation among the other defendants. Why, none of them expected to get off with less than five years in limbo. Here was a chance to profit by "his honor's" pleasant mood. One and all manifested an earnest desire to follow the example of their comrade and acknowledge the crimes in a batch.

"Do you all plead guilty?" demanded the judge, eagerly.

"We do!" shouted the enthusiastic nineteen, in chorus.

"Fourteen years' transportation apiece," exclaimed the judge, with a click of his jaw — "Jerry, is the mare saddled yet?"

An Irishman, convicted at the Old Bailey Sessions, London, on a charge of robbery, was brought into court for sentence.

"You have been convicted of robbery," said the court; "what have you to say why sentence of death should not be passed upon you?"

"Faith, I've nothing much to say, except that I do not think I am safe in your hands."

The court laughed; sentence was passed, and the prisoner was about to retire, when the officer of the court called him back and demanded to know his age.

"My age, you mane?"

"What is your age?"

"I believe I am pretty well as ould as ever I'll be."

Again the court was convulsed with laughter; but the wretched man, whose mirth-provoking powers were quite involuntary, was doomed even at the scaffold to "set the people in a roar." In the press-room his irons were removed and his arms confined with cords. This being done, he seated himself, and in spite of the calls of Jack Ketch and of the sheriffs to accompany them in the procession to the scaffold, he remained sullenly on the bench.

"Come," at last urged the hangman, "the time has arrived."

But the prisoner would not move.

"The officers are waiting for you," said the sheriff. "Can anything be done for you before you quit this world?"

No answer was returned. Jack Ketch grew surly.

"If you won't go, I must carry you."

"Then you may," said the prisoner, "for I'll not walk."

"Why not?" inquired a sheriff.

"I'll not be instrumental to my own death."

"What do you mean?" asked the ordinary.

"What do I mane?" retorted the hapless man; "I mane that I'll not walk to my own destruction."

And in this determination he persisted, and was carried to the scaffold, where he was turned off, refusing to do anything which might be construed into his being a party to his own death.

Shaw, Lemuel.— Shaw, the eminent Chief Justice of the Massachusetts Supreme Court, never received a higher compliment than the blunt one described in the following story:

During the trial of M'Nulty in Boston, in 1859, for murder, Joyce, somewhat noted as an assistant at prize-fights, was a witness. During the examination, the Chief Justice walked to the end of the bench, and in a grave way, peering over his spectacles, asked some questions of the witness. After the examination the following conversation took place between Joyce and an officer:

Joyce: "Did you see that chap that sot with two other coves behind a little fence there in court — I mean the cove called the chief?"

Officer: "Oh, yes; you mean Judge Shaw."

Joyce: "That's him; but what a glorious fellow he'd make for a referee!"

The eminent fairness of the judge had impressed the mind of the coarse man and compelled this praise.

There are many incidents illustrating the esteem in which Shaw was held by the common people — those who take a very human satisfaction in having it appear that this or that clergyman, or this or that judge, is on cheek-by-jowl terms with them. One of his associate judges happened one day to be in a Boston barber-shop having his hair cut. The garrulous capillary artist referred to the Chief Justice as one of his intimate friends,

and remarked: "The judge hasn't been in since last Saturday; I wonder he doesn't come in." After what Charles Lamb would call a "brilliant flash of silence," he added, with a patronizing air, as if magnanimously excusing the delinquent: "But then, I dare say he has something else on his mind."

Brains come in heads of all shapes. There is intelligence in all kinds of eyes. Manners often hide wisdom. Rufus Choate and a friend were dining in the Revere House, Boston, sitting at the table with a short, thickset gentleman who had a very small head, in which were two squirrel eyes, positively expressionless. Choate's friend could not keep his gaze off the man, who he imagined was an escaped lunatic. Finally, when the creature began to devour enormous quantities of food, he leaned over and whispered to Choate:

"Who do you suppose that fellow can be?"

"That is the celebrated Lemuel Shaw, Chief Justice of the Supreme Court of Massachusetts."

Sherman, Roger M.— Sixty years ago Sherman, of Connecticut, was one of the leaders of the New England bar. He was once engaged in a trial before a pompous judge of little ability, who had been lifted to his station on his father's shoulders. The judge found fault with Sherman for his frequent reference to English authorities, and, as one of these was about to be read, remarked:

"You need not take the trouble to read any more of these, so far as I am concerned."

"Well, then," said Sherman, a little warmly, "with your honor's permission, I will read it to the jury; and, before I read it, let me say it is the opinion of Lord Ellenborough, a Chief Justice of England, who rose to the woolsack by his own merits, and who shone by no reflected light."

Spencer, Joshua A.— In his day Spencer was a brilliant lawyer of the New York bar. In consultation he was remarkably prudent in mapping out plans for the conduct of trials. When his associates were, as he thought, rather too sanguine as to what the decisions of the court would be in respect to admission of evidence, and would urge that the law was so clear that the court could not decide otherwise than in their favor, he would relate the following anecdote: His first professional experience was in defending a man charged with the criminal offence of assault and battery, before a justice of the peace. The point for the justice to decide was whether there was sufficient evidence to justify him in holding the defendant for trial. After the testimony was all in, there being, as Mr. Spencer thought, not sufficient evidence to incriminate his client, he argued the case very thoroughly. Having demonstrated that his client was entitled to be discharged, he closed his argument, into which he had thrown all the feeling and pathos of which he was capable, by saying:

"On such testimony your honor can't hold my client."

"Can't, eh?" said the justice, "I held three men yesterday on no evidence at all. Never say 'can't' to me, young man."

Stenography.— Concerning the highest speed ever attained by expert short-hand writers, there is a story of the feat of a Georgia court stenographer, which, by long odds, broke the world's record: The late Judge Richard Clarke was presiding in the Atlanta circuit of the Superior Court. A remarkable murder trial was in progress. The evidence was conflicting, and the judge was called upon to charge the jury on some decidedly new and interesting legal points. The judge was a rapid talker. In this

instance it was important that every word he spoke should be correctly recorded, and he so cautioned the stenographer. Then Judge Clarke began. As he warmed up to his charge he was speaking at the rate of two hundred and fifty words a minute. Once he glanced toward the stenographer:

"Mr. ——, are you getting my words down correctly?"

"That's all right, judge: I am about fifteen words ahead of you now."

Stephens, Alexander H.— Stephens used to tell with a fine mimicry how Peter Bennett, an old Georgia farmer, beat Robert Toombs and Dr. Royston in a court trial.

"Royston had sued Bennett for professional services rendered; and I told Bennett," said Stephens, "that he could make no defence, and that Bob Toombs, a promising young lawyer, was on the other side, and he'd surely beat him."

"'Never mind,' said Bennett, 'I want you to speak in the case.'

"'No, Bennett, there's no use. If there is any speaking you'll have to do it yourself.'

"'Very well, I'll do it, then, if you'll hold off Bob Toombs.'

"I told Bennett I'd take care of Toombs, and was utterly surprised when Peter started off his speech to the jury:

"'Gentlemen of the jury, I ain't no lawyer and no doctor, and you ain't nuther, and if we farmers don't stick together these here lawyers and doctors will get the advantage of us. I ain't no objections to lawyers and doctors in their place, and some is clever men, but they ain't farmers, gentlemen of the jury. Now this Dr. Royston was a new doctor, and I sent for him to come and doctor

my wife's sore arm. And he did, and put some salve truck on it, and some rags, but it never done a bit of good. gentlemen of the jury. I don't believe he's no doctor, no way. There's doctors as I know is doctors, sure enough, but this ain't no doctor at all.'

"The farmer was making headway with the jury, when Dr. Royston said, 'Here is my diploma.'

"'His diploma,' said Bennett with great contempt; 'that ain't nothin', for no piece of paper ever made a doctor yet.'

"'Ask my patients,' yelled the now thoroughly enraged physician.

"'Ask your patients?' slowly repeated Bennett; 'why they are all dead.' Then he rapidly enumerated case after case, most of them among the negro servants and in the neighborhood, of such of the doctor's patients as had succumbed to his pills and powders, and continued: 'Ask your patients! Why, I should have to hunt them in the lonely graveyards and rap on the silent tomb to get answers from the dead. You know they can't say nothing in this case, for you've killed 'em all.'

"Loud was the applause, and Farmer Bennett won his case."

Stevens, Thaddeus.— A western Congressman, describing to Stevens a township in his district, the fertility of its soil, the salubrity of its climate, the magnificence of its scenery, finished by saying that all it wanted was plenty of water and good society.

"That is all they want in the *lower regions*," said Stevens.

When John Hickman said to Stevens in his last illness, "You are looking well," he replied, "Ah, John! it is not my appearance, but my disappearance, that troubles me."

Story, Joseph.—Chief Justice Story attended a public dinner in Boston at which Edward Everett was present. Desiring to pay a delicate compliment to the latter, the learned judge proposed as a volunteer toast:

"Fame follows merit where Everett goes."

The brilliant scholar arose and responded:

"To whatever heights judicial learning may attain in this country, it will never get above one Story."

On Chancellor Kent's visit to Boston in 1823, at a dinner given in his honor, the toasts were on the chairman's instantaneous requisition.

Judge Parker gave: "The happy climate of New York, where the moral sensibilities and intellectual energies are preserved long after *constitutional* decay has taken place."

Judge Story gave: "The State of New York, where the law of the land has been so ably administered that it has become the land of the law."

Chancellor Kent instantly replied: "The State of Massachusetts, the land of Story as well as of song."

Strother, Francis.— Half a century ago Strother was one of the brilliant lawyers of Alabama. Some bits of portraiture of the man are drawn from Baldwin's widely read and interesting "Flush Times of Alabama and Mississippi."

Strother was the genius of labor. His unequaled facility in the dispatch of business surprised all who knew its extent. Nothing was omitted — nothing flurried over — nothing bore marks of haste, nothing was done out of time. System — order — punctuality waited upon him as so many servants to that patient and indomitable industry. He had a rare tact in getting at, and in getting

through, a thing. He saw at once the point. He never missed the point of the argument. He never went to opening the oyster at the wrong end. He never turned over and over a subject to find out what to do with it or how to commence work. He caught the *run* of the facts — moulded the scheme of his treatment of them — saw their right relations, value and dependence, and then started at once, in ready, fluent and terse English, to put them on paper or marshal them in speech. His power of statement was remarkable, especially of written statement. He could make more out of a fact than most men out of two; and immaterial matters he could so dove-tail and attach to other matters that they left an impression of a great deal of plausibility and pertinency.

There was business skill in every thing he did. His arguments were clear, brief, pointed — never wandering, discursive or episodical — never over-worked, or overladen, or over-elaborated. He took all the points — took them clearly, expressed them neatly and fully — knew when to press a point and when to glide over it quickly, and, above all — what so few know — he knew when he was done.

In his own private affairs no man was more liberal and yielding, or less exacting or pertinacious; professionally, his concessions took the form of and exhausted their energies in beneficent words, benignant seemings and gracious gestures. But his manner was inimitably munificent. Though he gave nothing, he went through the motions of giving most grandly; empty-handed, you felt that you were full; you mistook the filling of your ears for some substantial benefit to your client; there was an affluence of words, a lingual and manual generosity which almost seemed to transpose the figures on the statement which

he proposed as a settlement. With a grand self-abnegation he would allow you to continue a cause when his side was not ready to try it, and would most blandly merely insist on your paying the costs, magnanimously waiving further advantage of your situation. He would suffer you to take a nonsuit with an air of kindness calculated to rivet a sense of eternal obligation. No man reveled in a more princely generosity than he when he gave away nothing. And to carry out the self-delusion he *took* with the air of giving a bounty. Before his manner of marvelous concession all impediments and precedence vanished. If he had a case at the end of the docket he always managed to get it tried first; if the arrangement of the docket did not suit his convenience, his convenience changed it by a sort of not-before-understood but taken-for-granted general consent of the bar. There was such a matter-of-course about his polite propositions, that for a good while no one ever thought of resisting them; indeed, most lawyers, under the spell of his infatuating manners, half recollected some sort of agreement which was never made. In the trial of a cause he would slip in testimony on you in such a cozy, easy, insinuating fashion that you were ruined before you could rally to oppose it. Even witnesses could not resist the graciousness and affectionateness of his manner, the confidence with which he rested on their presumed knowledge — they thought they must know what he evidently knew so well and so authentically.

Strother had no doubts. He had passed from this world of shadows to a world of perfect light and knowledge. He had the rare luck of always being on the right side; and then he had all the points that could be made on that side clearly in his favor, and all that could be made against him were clearly wrong. He was never taken off his guard. If a witness swore him out of court,

he could not swear him out of countenance. He expected it. His case was better than he feared. In the serene confidence of unshakable faith in his cause, brickbats fell on his mind like snowflakes, melting as they fell, and leaving no impression. If he had but one witness, and you had six against him, long after the jury had ceased listening and when you concluded, he would mildly ask you if that was *all* your proof, and if you proposed going to the jury on that?

Sumner, Charles.— Sumner is said by his biographer, Mr. Edward L. Pierce, to have been entirely devoid of humor, yet in Mr. Pierce's very interesting work we find this delicious little incident:

We have heard a story that he was in his younger days taken dangerously sick, so suddenly that he could not be carried home, and lay in great agony on a couch in his office. The friend who was with him thought it his duty to intimate to him the danger of his condition, and asked him if he wished to do anything by way of preparation.

"I am prepared to die," whispered Sumner, in a voice weak from suffering; "*I have read through Calvin's Institutes in the original.*"

Sutherland, Josiah.— Judge Sutherland was proverbial for his absent-mindedness, of which many instances occurred. The officers of his court, taking advantage of this weakness, occasionally played practical jokes upon him, which, but for his kindness of heart and genial manners, would have been perilous to them. On one occasion when the judge was sitting at chambers, one of his officers said to the others that he could get Judge Sutherland to sign any order he wanted, no matter what the order might

contain. They determined to try the experiment, and drew the following order:

"At a special term of the Supreme Court, held in the city hall, in the city of New York, this —— day of ——, present, Hon. Josiah Sutherland, Supreme Court Justice. After hearing . . . of counsel for . . . , no one appearing in opposition thereto, it is ordered that the following officers of the Supreme Court (giving their names) appear with the said Josiah Sutherland, justice of the Supreme Court, at one o'clock in the afternoon of this day, at Delmonico's restaurant, and partake of a champagne lunch at his expense; and the said officers of said Supreme Court as aforesaid are hereby notified that if they or any of them fail to obey this order they will be adjudged guilty of contempt of court and punished to the utmost extent of the law."

This order, with others, was presented to Judge Sutherland, and, without examining the contents, he promptly signed it. When the court took a recess the officers huddled around him, and one of them stated to him that he had an important engagement at one o'clock. The judge said he did not know of any. The officer then showed him the order. He took the joke kindly and said:

"Well, boys, the order of the court *must be obeyed;* no time must be lost."

So they marched over to Delmonico's and had a sumptuous lunch at the judge's expense.

Tact.—"Talent," says a writer, "knows *what* to do, tact knows *how* to do it; talent makes a man respectable, tact will make him respected; talent is wealth, tact is ready money. For all the practical purposes of life, tact carries it against talent ten to one. Talent has many a compliment from the bench, but tact touches fees from

attorneys and clients. Talent speaks learnedly and logically, tact triumphantly. Talent makes the world wonder that it gets on no faster, tact excites astonishment that it gets on so fast. And the secret is, that it has no weight to carry; it makes no false steps; it loses no time; it takes all hints; and, by keeping its eye on the weathercock, is able to take advantage of every wind that blows."

As Emerson sings,—

"Tact clinches the bargain;
Sails out of the bay;
Gets the vote in the Senate
Spite of Webster or Clay."

"It is related of Lincoln," says Mr. Donovan, in his bright little volume *Tact in Court*, "that he seemed utterly regardless of little points, holding to the core of his case, and winning by his liberality and fairness. In the trial of disputed bills, he would waive interest or forego trifles, from time to time, until the close, when he would bend to his work of winning the main issue with a determination seldom witnessed, and, having won the jury by good humor, he would fasten their judgment on the sum he demanded. The higher one rises at the bar, the less is known of little, quibbling demands and defences."

Referring to Lincoln's power and tact in jury trials, Leonard Swett says:

"As a trial lawyer he had few equals and no superiors. He was as hard a man to beat in a closely contested case as I have ever met. He was wise in knowing what to attempt and what to let alone. He was fair to the court, the jury, and his adversary; but candor compels me to say that he by practice learned there was power in this. He was candid and he was fair; but he knew how to make just the most of this. As he entered the trial where most lawyers 'object,' he would say he 'reckoned' it would be

fair to let this in or that; and sometimes, when his adversary could not prove what Mr. Lincoln knew to be the truth, he would say he reckoned it would be fair to admit the truth to be so and so. When he did object to the court, after he heard his objection answered, he would often say: 'Well, I reckon I must be wrong.' Now about the time he had practiced this three-quarters through a case, if his adversary didn't understand him, he would wake up in a few minutes, finding that he had feared the Greeks too late — and himself beaten. He was as wise as a serpent in the trial of a cause. By giving away six points and carrying the seventh, he carried his case, and, the whole case hanging on the seventh, he traded everything off which could give him the least aid in carrying that."

In an action for breach of promise of marriage, Sergeant Wilkins won a verdict for the defendant, a moneylender of small stature, by saying to the jury:

"Gentlemen of the jury, do you think that this enchanting, this accomplished young lady would ever have permitted an offer of marriage to be made to her by this miserable atom of humanity, this stunted creature, who would have to stand on a sheet of paper to look over twopence?"

A lawyer, having advertised for a young clerk, found his office crowded the next morning with applicants. Arranging them in a row, he said he would tell them a story, note their comments, and from that judge of his choice:

"A certain farmer," began the lawyer, "was troubled with a red squirrel that got through a hole into his barn and stole his seed corn. He resolved to kill the squirrel at the first opportunity. One noon, seeing him go in at the hole, he took his shot-gun and fired away; the charge set the barn on fire."

"Did the barn burn down?" asked one of the boys.

The lawyer, without answering, went on:

"Seeing the barn on fire, the farmer seized a pail of water, and ran to put the flames out."

"Did he put them out?" asked another.

"As he passed inside, the door shut to and the barn was soon in flames. The hired girl rushed out with more water—"

"Did they all burn up?" asked another boy, eagerly.

"Then the old lady came out, and all was confusion, and everybody was trying to put out the fire."

"Did any one burn up?" asked another.

"There, that will do; you have all shown great interest in the story," the lawyer said.

He turned toward one bright-eyed little fellow, who had maintained a deep silence, and said:

"Now, my little man, what have you to say about it?"

The little fellow blushed, grew uneasy, and stammered out:

"I want to know what became of the squirrel!"

"You'll do; the position is yours," exclaimed the lawyer. "You have not been switched off by a confusion and a barn burning, and hired girls and water pails; you have kept your eye on the squirrel."

An Illinois attorney cites an interesting trial in which he was engaged. The evidence was conclusive, the law was on his side, and when he arose to address the jury he thought he had the case won. He noticed, however, as he proceeded with his argument that one of the jurymen, a stolid old farmer, did not seem to be with him. The other eleven men had already decided the case in their own minds, but the farmer was stupid and obstinate. He then tried a new tack; repeated his argument until he came to a place where the opposing lawyer had

made an egregious error, and then leaning over to the old farmer, said:

"And there, my friend, that's where he dropped his watermelon."

The old farmer laughed outright, and from that moment the case was won.

General Barnes had the happy faculty of impressing his clients that justice and law were with them in all cases. A countryman walked into his office and said:

"General, I have come to get your advice in a case that is giving me some trouble."

"Well, what is the matter?"

"Suppose now," said the client, "that a man had a fine spring of water on his land, and his neighbor living below him was to build a dam across a creek running through both their farms, and it was to back the water up into the other man's spring, what ought to be done?"

"Sue him, sir, sue him by all means," said the General, who always became excited in proportion to the aggravation of his client's wrongs. "You can recover heavy damages, sir. It is a most flagrant injury he has done you, sir, and the law will make him pay well for it. Just give me the case, and I'll bring the money from him; and if he hasn't a good deal of property it will break him up, sir."

"But stop, General," cried the terrified applicant for legal advice, "it's me that built the dam, and it's neighbor Jones that owns the spring, and *he's* threatening to sue *me!*"

The keen lawyer hesitated but a moment before he tacked ship and kept on:

"Ah! Well, sir, you say you built a dam across that creek. What sort of a dam was that, sir?"

"It was a mill-dam."

"A mill-dam for grinding grain, was it?"

"Yes, it was just that."

"And it is a good neighborhood mill, is it?"

"So it is, sir; you may well say so."

"And all your neighbors bring their grain there to be ground, do they?"

"Yes, sir, all but Jones."

"Then it's a great public convenience, is it not?"

"To be sure it is. I would not have built it but for that. It's so far to any other mill, sir."

"And now," said the old lawyer, "you tell me that that man Jones is complaining just because the water from your dam happens to back up into his little spring, and he is threatening to sue you. Well, all I have to say is, let him sue, and he'll rue the day he ever thought of it, as sure as my name is Barnes."

Curran is said to have received a call, before he left his bed one morning, from a gentleman whom he had cross-examined with needless cruelty and unjustifiable insolence on the previous day.

"Sir!" said this irate man, presenting himself in Curran's bed-room, and rousing him from slumber, "I am the gintleman you insulted yesterday in His Majesty's court of justice, in the presence of the whole county, and I am here to thrash you soundly."

Thus speaking he raised a horsewhip to strike Curran, when the latter quickly said:

"You don't mean to strike a man when he's down?"

"No, bedad; I'll just wait till you've got out of bed and then I'll give it to you sharp and fast."

Curran's eye twinkled mischievously as he rejoined:

"If that's the case, I'll lie here all day."

So amused was the visitor with this humorous announcement that he dropped his horsewhip, and, dismissing anger with a hearty laugh, asked Curran to shake hands with him.

Attorney B—— was concerned for the defendant in the action of ejectment of *Barley v. Stiffler*. The land in dispute, adjoining Barley's piece, had been farmed for fifty years by Stiffler, who had taken out a warrant for it, but never had his survey returned. This neglect, Barley supposed, would be fatal to Stiffler's title, and he got out another warrant, and had his survey made and regularly returned. The sympathy of the court, bar and audience was with honest old Stiffler, and B—— made one of his best speeches to the jury. In the course of his remarks he described Barley standing in his own door, viewing and coveting the land:

"He saw, gentlemen of the jury, that it was good for rye, good for corn, good for wheat, and he thought that it would be good for *barley* too."

The right chord was struck, and a burst of applause followed which the court did not appear very anxious to restrain. A verdict was returned for Stiffler.

James O'Reilly, an eminent Canadian lawyer, represented the plaintiff in the trial of a civil suit involving $2,000 damages. In his address to the jury, he said:

"Gentlemen of the jury, I am a plain, practical man, and do not wish to impose upon your time or insult your intelligence with useless verbiage or specious arguments. Let us look at this matter in the light of common-sense. Suppose that one of your number has a horse to sell (here the jury roused themselves), and I wish to buy him. I offer you $100, you ask $150. We cannot agree; so we

call in some honest neighbor—like your worthy foreman—and ask him to decide between us, and do the fair thing. He splits the difference, and makes it $125. Now apply your plain good sense to the present case on the same just principle. We claim $2,000. The defendant will not give us anything. Do your duty as between man and man. I have all confidence in you."

He sat down, and in a few minutes the jury returned a verdict for the plaintiff for $1,000, which was their idea of the happy medium between nothing and $2,000.

A prominent Georgia judge, very democratic, both in politics and religion, especially so in the latter, was in attendance on the Superior Court. The Presbyterians of the place, headed by their zealous and energetic minister, were at that time actively engaged in an effort to build a new house of worship. The Reverend Mr. Collins was enlisted in the good cause, and never let an opportunity slip without presenting his subscription list to all whom he might meet. One day when court adjourned, as the judge was passing out of the court-house door, the reverend gentleman touched him on the shoulder and asked him to step aside a moment:

"This is Judge ——, I believe," said Collins.

"It is," said the judge.

"We are engaged in endeavoring to build a new house of worship. Perhaps this (handing the subscription list) will inform you my object better than I can tell you."

Here the judge looked very professional, took out his spectacles, examined the heading of the list critically, and for a moment seemed engaged in profound thought; then turning to the expectant parson, the judge, with a sly twinkle of the eye and the blandest smile imaginable, remarked, "*that will bind them*, sir,— that will bind them; no doubt about it."

This took the reverend gentleman a little aback. But rallying again, he renewed the attack:

"But, judge, you don't understand me; I want you to help us. We are going to raise —"

"Ah!" said the judge, "You are going to have a raising — a house raising, are you? Well, just let me know when it is, and I will send up three or four hands with pleasure."

Here the minister's countenance exhibited a good deal of disgust, and he appeared to be perfectly bewildered at what seemed the judge's stupidity. "Why," said he, "judge, it's a brick house we want."

"A brick house, is it?" said the judge; "a brick house? Won't a log house do as well? Several years ago we built a log house in our community for religious purposes — some cut the logs, some hewed them, some split the boards, some raised the house, and some covered it — and the Lord has never made any complaint against it yet. If you'll build a log house, and the Lord complains, I'll head your subscription list for a brick one."

The parson gave in, and left.

Of Sergeant Parry, a famous English advocate, it is said: "If he did not know something personally of each one of the twelve men he set himself to convince or cajole, he worked on a set of general principles, the result of vast experience, and he was seldom at fault. Tact he had in a large measure: the tact which consisted in not pressing a point where he saw the judge or jury were against him; in not bullying witnesses; in not wrangling with the bench or with his 'friend' on the other side; above all, in not running counter to any sympathies or antipathies of the jury. The first time you saw him you thought you had at last found a lawyer who really had equally at heart the interests of his client and the interests of justice."

Harry Erskine (brother of Lord Erskine) mistaking, on one occasion, the side for which he was retained, addressed the jury with great force against his client, who writhed with alarm and astonishment. At length, as the erring advocate was about resuming his seat, the client succeeded in getting a note into his hands, telling him he had been arguing on the wrong side. Without the slightest embarrassment he turned to the jury and said:

"Gentlemen, such are the arguments which the speaker on the other side will address to you. I shall now show you how worthless they are."

He then tore to pieces all the reasoning he had brought forward.

James Scarlett, the great English barrister, noted for his tact in examining witnesses, had a twinkling expression of sagacity in his look, and a humorous aspect which told amazingly with jurors. After a case had apparently been shattered by the witnesses and argument of his adversary, Scarlett would rise and quietly begin:

"Gentlemen of the jury, I am quite sure that, like all the rest of us, you will have been overpowered and fascinated by the eloquence of the speech to which we have just listened with such delight. Let me now endeavor in my prosaic way to draw you down from the empyrean to which you have been lifted by my learned brother."

Then bit by bit the arguments of the predecessor were ruthlessly stripped of verbiage, and their worthlessness exposed in its unadorned nakedness.

His success with juries was almost supernatural. The Duke of Wellington said of him: "When Scarlett is addressing a jury there are thirteen jurymen." As a writer observes: "What the duke meant was, that Scarlett, suppressing the advocate, talked to them as one of themselves, and as having at heart the same object — the discovery of

the truth. He did this so completely that the sense of his superiority was lost, and no suspicion broke upon them that they were under a spell woven by a master of his art."

After the breaking up of the court on the last day of a long Yorkshire Assize, Wightman, then at the bar, found himself walking in the crowd cheek-by-jowl with a countryman whom he had seen serving day after day on the jury. Liking the look of the man, he got into conversation with him, and, finding that this was his first attendance at the assizes, asked him what he thought of the leading counsel. "Well," was the reply, "that Lawyer Brougham be a wonderful man; he can talk, he can; but I don't think nowt of Lawyer Scarlett." "Indeed!" exclaimed Wightman, "you surprise me. Why, you have been giving him all the verdicts." "Oh, there's nothing in that," said the juror; "he be so lucky, you see, he be always on the right side."

Tenterden, Lord.— An involuntary witticism of Lord Tenterden — a great jurist, but by no means a humorist — shows strikingly the force of judicial habit. He was so thoroughly accustomed to keeping himself and everyone else to the precise matter in hand that once during a circuit dinner, having asked a county magistrate if he would take some venison, and receiving what he deemed to be an evasive reply: "Thank you, my lord, I am to take boiled chicken," he sharply retorted:

"That is no answer to my question. I ask you again if you will take venison, and will trouble you to say 'Yes' or 'No' without further prevarication."

Tenterden, though a man of fine imagination, and a poet, would tolerate no undue display of learning and sentiment at the bar:

"It is asserted in Aristotle's Rhetoric," argued a pedantic barrister to his lordship.

"I don't want to hear what is asserted in Aristotle's Rhetoric," interposed his lordship.

"It is laid down in the Pandects of Justinian," continued the barrister.

"Where have you got to now?"

"It is a principle of the civil law."

"Oh, sir, we have nothing to do with *civil* law in this court."

Lord Campbell insists that this pun of Tenterden, if it can be called one, was unintentional; like that of Blackstone, who remarks in his *Commentaries* that "landmarks on the seashore are often of *signal* service to navigators."

Testimony.—"Larry" in court—from "Rory O'More," by Samuel Lover—is a humorous gem from the Green Old Isle.

Counsel: You say that the prisoner at the bar and the late Mr. Scrubbs—

The counsel for the defence here interposed, and said he objected to the term, the *late* Mr. Scrubbs, as it was assuming the fact he was dead, which was not proven. The examination then proceeded.

Counsel: The prisoner at the bar and the late—I beg pardon—*Mister* Scrubbs were the last to leave the "Black Bull" on that day? Witness: Yis, sir.

Counsel: How did they go? Witness: They wint out o' the door, sir.

Counsel: I don't suppose they went out of the window. I mean, did they leave about the same time? Witness: They wint together, sir.

Counsel: Both out of the door at once? Witness: No. Mr. Scrubbs wint first.

Counsel: And the prisoner after? Witness: Yis.

Counsel: Then he followed him? Witness: Yis.

Counsel: You observe, gentlemen of the jury, Mr. Scrubbs went *first*, and the prisoner *followed* him. Witness: Why, you wouldn't have him go *before* the gintleman!

Counsel: Silence, sir! Remember *that*, gentlemen — he *followed* Mr. Scrubbs.

There was a good deal more of examination which it would be uninteresting to record; and after the landlord of the "Black Bull" had been bullied and tormented as much as the counsel chose, he said "You may go down, sir."

Larry Finnegan, delighted to escape, scrambled from the witness's chair, and was rushing off the stand, when Rory's counsel interposed and said, "I beg your pardon — don't go down yet."

"Oh!" said the counsel for the crown, "*you* want to cross-examine him, do you?"

"I *believe* I have a *right*, sir," was the young barrister's reply.

"Why, sure, what crosser examination can you gi' me than the one I got?" said poor Finnegan.

"Sit down, sit down, my man," said the counsel, encouragingly. "Now, don't be in a hurry, don't be alarmed; take your time, and answer me quietly a few questions I shall ask. You say some conversation passed between the prisoner and Mr. Scrubbs at your house? Witness: Yis, sir — they wor spakin' togither for some time.

Counsel: I think you mentioned that Mr. Scrubbs asked the prisoner was he going home? Witness: He did, sir.

Counsel: And the prisoner *was* going home? Witness: Yis, sir.

Counsel: Mr. Scrubbs' road home lay the same way, I believe? Witness: It did, sir.

Counsel: Then he and the prisoner *could not help* going the same road? Witness: They could not, sir.

Counsel: Mr. Scrubbs went out of the door first? Witness: Yis, sir.

Counsel: And the prisoner after? Witness: Yis, sir.

Counsel: Immediately? Witness: That minit.

Counsel: Then, what do you mean by saying he followed him? Witness: I mane, he folly'd him the way a poor man would folly a gintleman, of course.

Counsel: I beg your attention, gentlemen of the jury, to this explanation of the witness's meaning, upon which the opposite counsel has put a false construction.

Was the crow-bar you gave the prisoner his or yours? Witness: It was his, sir; he lint it to me, and kem that day to ax for it.

Counsel: He *came* to ask for it, did he? — then it was for that particular purpose he went to your house that day? Witness: It was, sir.

Counsel: Before he saw Mr. Scrubbs at all? Witness: Yis, sir.

Counsel: I beg you to remember *this* also, gentlemen of the jury. You may go down, witness.

Larry Finnegan again attempted to descend from the stand, but was interrupted by the counsel for the prosecution, and the look of despair which the countenance of mine host of the "Black Bull" assumed was almost ludicrous. "Is it *more* you want o' me?" said he.

Counsel: A few questions. Sit down.

Larry scratched his head and squeezed his hat harder than he had done before, and resumed his seat in bitterness of spirit; but his answers having latterly all gone smoothly, he felt rather more self-possessed than he had done under his previous examination by the prosecuting counsel, and his native shrewdness was less under the control of the novel situation in which he was placed.

The bullying barrister, as soon as the witness was seated, began in a thundering tone thus:

Counsel: Now, my fine fellow, you say that it was for the particular purpose of asking for his crow-bar that the prisoner went to your house. Witness: I do.

Counsel: By virtue of your oath? Witness: By vartu o' my oath.

Counsel (slapping the table fiercely with his hand): Now, sir, *how* do you know he came for that purpose? Answer me *that*, sir!

Witness: Faith, thin, I'll tell you. When he came into the place that morning, it was the first thing he ax'd for; and by the same token, the way I remimber it is, that when he ax'd for the crow-bar he lint me, some one standin' by ax'd what I could want with a crow-bar, and Rory O'More with that said it wasn't me at all, but the misthress wanted it (Mrs. Finnegan, I mane). "And what would Mrs. Finnegan want wid it?" says the man. "Why," says Rory, "she makes the punch so sthrong that she bint the spoon sthrivin' to stir it, and so she borrowed the crow-bar to mix the punch."

A negro was arrested for stealing a hog from Mr. Henderson, of Tennessee. At the hearing Henderson took the stand, and the justice of the peace began:

"Is your name Thomas Henderson?"

"Of co'se; didn't reckon I'd bin changin' names, did yo', squar?"

"Live in this yere town?"

"Sartin, I do. That's a powerfully foolish question to ask me."

"Reside in this yere county and state, I take it."

"Search me, but of co'se I do!" exclaimed the witness. "I was bo'n right yere and never wandered fifty miles away, an' yo' know it, and the law knows it too."

"On the 5th day of this month were yo' in possession of a certain spotted hog, weighing about one hundred and sixty pounds, and hevin' a kink in his tail?"

"Of co'se I was; what's all this beatin' around fur, squar? Why don't yo' go ahead and let me sw'ar to the killin' and findin'?"

"Law is law, Mr. Henderson, and we must go 'cordin' to law or we can't make a case. Was yo' out in the woods the afternoon of the 5th?"

"I was."

"Gettin' chestnuts?"

"Yes."

"Find any?"

"'Bout half a bushel; but what's the matter now? What has chestnuts got to do with that hog?"

"Steady, Tom. Is yo'r eyesight good?"

"Jess h'ar him. Squar Taylor! that ain't no law! That's only foolin' 'round like a man lookin' up a coon tree when the coon is somewhar' else."

"How about yo'r hearin'?" continued his honor.

"Say, squar'," said the witness rising, and pounding his fist on the desk, "this haint no case whar' somebody traded mewls, but it's a case whar' that pesky Ave Salter stole my hog, and is yere to be tried fur it. Now yo' quit fussin' and go 'cordin to law, or I'll walk right off."

"Wall, Tom, I reckon we've made a good 'nuff case," said his honor, as he closed the law book before him, "and Abe Salter is sentenced to three months in jail, and will be took thar' right off!"

An action to recover damages was brought against the owner of a wagon, which, by the reckless driving of the wagoner, had forced a donkey against a wall, and there pressed the poor creature to death. The principal witness for the plaintiff was the driver of the donkey, who,

feeling himself very much browbeaten by the defendant's counsel, became exceedingly nervous and confused in his evidence. He was several times reprimanded by the judge for not looking in the faces of those interrogating him. The poor fellow's embarrassment increased upon every reproof, and the opposing counsel was particularly severe with him, several times saying:

"Hold up your head, witness; look up! Can't you look as I do?"

"Nay, sir," replied the countryman, with perfect simplicity, "I can't — you squint."

The poor harassed witness was next asked by the supporting counsel, Sergeant Cockle, to describe the local situations of the several parties concerned — their relative positions at the time of the accident and death of the poor donkey; where the wagon was, and where the unfortunate animal stood, etc. At last, summoning up his courage, he hesitatingly began:

"Weel, my lord joodge, I'll tell you how it happened as best I can. First of all," turning to Cockle, "you are the wall."

"Very good," said Cockle.

"Ay, you are the wall," repeated the witness; and then changing his position in the court to another spot, he added, "and now, I am the wagon."

"Very well," observed the judge; "proceed."

"Yees," he repeated, "I am the wagon," and with a low bow, added, "your lordship's the donkey."

This evidence, though perhaps not quite satisfactory to the judge, was conclusive.

Magistrate: "The evidence shows that you threw a brick at the man."

Mrs. McDuff: "An' it shows more than that, your honor. It shows that I hit him."

"Is he fatally wounded, officer?" said the judge.

"Two av the wounds is fatal, sor, but the third is not, an' if we can lave him rest quiet for a fwhile, I think he wud come 'round all right.

A striking definition occasionally crops out in the testimony of witnesses. In a New Jersey horse case, a negro witness was called to explain the difference between a box-stall and a common stall. Straightening up, and pointing to the square inclosure where the judge sat, he said:

"Dat ar's what I call a box-stall, dere whar dat old hoss is sittin'."

The following story comes from a criminal trial in the court of Queen's Bench at Montreal:

The prosecution was for nuisance, and was brought nominally by Her Majesty against the owners of one of the largest iron works in that city. The residents in the neighborhood had subscribed funds and retained counsel, a true bill was found, and the case proceeded for trial. Householders told dreadful tales of the damage done to property by the immense quantities of smoke emitted from the low chimneys of the defendants' furnaces; housewives testified that their washing was constantly spoiled when hung out to dry in their yards or on their roofs; and medical men swore to the deleterious effects of the smoke on the public health. Toward the conclusion of the case, a witness from the Emerald Isle went on the stand. He owned a small property close to the rolling-mills, and thus proceeded:

"Yer anner and gintlemin av the jury, oi will tell me shtory in me own way. Oi live nixt door to a party be the name av Grogan — Jerry Grogan, yer anner — a dacint married man wid a woife and four shlips av bhoys.

Wan day whin the chimneys av the rollin'-mills was puffin' out shmoke like the divil, oi hears a terrible row goin' on in Jerry Grogan's house, shoutin' and schreamin' and yellin'. I goes up to the door, and sez oi, 'let me in.' 'Come in, for God's sake,' sez Mrs. Grogan; 'Jerry is killin' me,' sez she. And in oi goes, and sees Jerry wallupin' the woife. 'Jerry,' sez oi, 'what are ye batin' the woife for?' sez oi. Sez Jerry to me, sez he, 'she's got niggers in the house,' sez he. 'Niggers!' sez oi. 'Yes,' sez he. 'Where is the niggers?' sez oi. 'In the room beyant,' sez Jerry. And so oi goes into the room beyant, and sings out to Jerry, 'Jerry, ye're a fool,' sez oi. 'What for?' sez he. 'Beca'se,' sez oi, 'thim's no niggers,' sez oi. 'Well, what the divil are they?' sez he. 'Jerry,' sez oi, 'ye're mad,' sez oi. *And, yer anner and gintlemin av the jury, thim niggers was Jerry's own children, begrimed by the shmoke from the defendants' fachtory chimneys.*"

"Witness," sternly said the judge, "do you swear that this extraordinary story is true?"

"Oi do, yer anner."

"That will do."

Judge, to counsel: Allow me to examine this witness. I think I can get at the truth. Now, MacTurk, you say you know all about this burglary. State in as few words as possible what you saw and heard.

MacTurk: Well, you know, I got up that mornin' at five o'clock and I dhressed meself —

Judge: Stop a moment. This burglary took place at three o'clock in the afternoon. What has five o'clock in the morning to do with that?

MacTurk: Sure, that was the time I got up, your honor. I'll explain.

Judge: We don't want explanations. Go on with the evidence.

MacTurk: As I said before, I got up that morning at five o'clock and I lit the fire—no—I made a mistake; I niver light it till I've had a dhrink.

Judge (sternly): We don't care to hear anything about that, sir.

MacTurk: Sure, I know ye don't, yer honor—why should ye? Me wife sez to me—

Judge (emphatically): Never mind what your wife said.

MacTurk: I niver do, yer honor; I pay no attention to her, whatever. I lit me pipe—

Judge: Never mind your pipe.

MacTurk: And I went down to the corner and I got a sixteen-to-one—

Judge: A what? (Sensation in the court.)

MacTurk: It's a dhrink, yer honor. They put sixteen different things in it an' if ye took the second one it would knock ye stiff.

Judge (rising angrily): I would like to know how the counsel for the prosecution dares—I say *dares*—to put such a witness on the stand. This person ought to be in a lunatic asylum.

Counsel (with dignity): Your honor, this is a most important witness. In the interests of justice, I beg you to give him one more chance.

Judge (becoming calm): I will try him once more. Now, MacTurk, be very careful to tell us only the facts that bear on this robbery.

MacTurk: Yer honor, I got up that mornin'—

Judge (thunderingly): Stop!

Counsel (to the rescue): Where were you, MacTurk, at three o'clock that day?

MacTurk: I was goin' down past the lot by Brown's factory.

Counsel: What did you hear?

MacTurk: Whin I was passin' the board fence somethin' inside said "thoo" and gev a sneeze, and thin somethin' ran away. I didn't see it an' it didn't see me.

Judge (interrupting): How does this bear on the robbery?

MacTurk: Sure, yer honor, that was the time the place was robbed.

Judge: Well, did you see any person?

MacTurk: Sorra a one at all, yer honor, but as I said before, I heard somethin'—

Judge (despairingly): *Something?* What do you think it was?

MacTurk: Divil a know, yer honor, it might have been a goat. But the place was robbed, for sure, and I think that was the one that done it.

In a negligence case the judge and counsel were trying to extract from the witness — a good-humored Irishman — something about the speed of a train.

"Was it going fast?" asked the judge.

"Aw, yis, it were."

"How fast?"

"Oh, purty fasht, yer honor."

"Was it as fast as a man can run?"

"Aw, yis," glad that the basis for an analogy was supplied. "As fasht as two min kin run."

Thesiger, Sir Frederick.— Thesiger, afterwards Lord Chelmsford, while engaged in a trial, objected to the irregularity of a learned sergeant who repeatedly put leading questions in examining his witnesses.

"I have a right," maintained the sergeant doggedly, "to deal with my witnesses as I please."

"To that I offer an objection," retorted Frederick; "you may deal as you like; but you shan't lead."

Sergeant Channell, who was in the habit of dropping his h's, and Thesiger were trying a case about a ship called the Helen. Every time the former mentioned the vessel, he called it the Ellen. Every time the other counsel mentioned her, he called her the Helen. At last the judge, with a quaint gravity, said, "Stop! what was the name of the ship? I have it on my notes the Ellen and the Helen. Which is it?"

"Oh, my lud," said Thesiger, in his blandest and most fastidious manner, "the ship was christened the Helen, but she lost her 'h' in the chops of the Channell.

Thurlow, Lord.—During a debate on Lord Sandwich's administration of Greenwich Hospital, the Duke of Grafton taunted Thurlow, then Lord Chancellor, on his humble origin. Thurlow rose from the woolsack, and, advancing towards the duke, declared he was amazed at his grace's speech. "The noble duke," he cried, in a burst of oratorical scorn, "cannot look before him, behind him, nor on either side of him without seeing some noble peer who owes his seat in this House to his successful exertions in the profession to which I belong. Does he not feel that it is as honorable to owe it to these as to being *the accident of an accident?*"

Thurlow's summing up of Lord Mansfield: "A surprising man; ninety-nine times out of a hundred he was right in his opinions and decisions; and when once in a hundred times he was wrong, ninety-nine men out of a hundred would not discover it."

Thurlow was notorious for his drunkenness, insolence and profanity. On one occasion a young barrister, who had to prove that a certain party was dead, was interrupted by Thurlow with the rude explanation: "Bah!

that's no proof!" The lawyer sadly proceeded: "My lord, it is very hard that you will not believe me. I knew him well to his last hour; I saw him dead and in his coffin. My lord, he was my client." "Good heavens, sir," exclaimed the clown chancellor, "Why didn't you tell me that before? I should not have doubted the fact one moment; for I think nothing can be more likely to kill a man than to have you for an attorney."

Thurston, John M.—Some years ago an affray among the miners of the West resulted in murder, and United States Senator Thurston of Nebraska, believing the accused to have been innocent in intention, took up his case and greatly mitigated the lad's punishment. Six month afterwards a man, armed to the teeth, appeared in Thurston's office.

"Be you Squire Thurston?"

"Yes."

"Be you the man that defended Jack Bailey at court?"

The Senator, thinking his last hour had come, again answered, "Yes."

"Well, I'm Jack Bailey's pardner, and I've come to pay you. I haven't got any money, but I'm a man of honor. Anybody in town you don't like?"

As the Senator smilingly disclaimed any thirst for booty or blood, the caller insisted incredulously, "Put on your hat, Squire, and just walk down the street. See anybody you don't like, throw up your thumb and I'll pop him."

Tipstaff.—An old court crier, deaf as a beetle, was in the habit of calling witnesses (whose names he generally managed to get wrong) from the second-story window of the court-house, in a voice heard for a square or more.

On one occasion the presence of a witness named Arabella Hanks was needed. The crier, like a parrot nodding on his perch, was roused from his slumber by an order from the court to call the witness. Looking anxiously at the judge, with his hand at his ear, in order to catch the sound correctly, he said:

"What, your honor?"

"Call Arabella Hanks," said the judge.

Still in doubt, the poor crier said again, with a puzzled look:

"What, your honor?"

"Call Arabella Hanks, crier, and delay the business of the court no longer!" said the judge, much provoked.

The old crier, with a countenance indicating doubt and desperation, proceeded to the window, and in his loudest voice called:

"Yaller Belly Shanks! Yaller Belly Shanks! Yaller Belly Shanks! Çome into court!"

The seriousness of the court-room was convulsively disturbed by the laughter caused by the crier, who, in answer to the court as to whether or not the witness answered, said, "No, your honor; I don't believe there is such a person in the county, for I've lived here forty years, and I've never *he'erd* of him before."

"What side is the gentleman on?" asked a stranger who had been listening for two hours to a lawyer arguing a case.

"I don't know," replied the tipstaff; "he hasn't committed himself yet."

A Galway tipstaff, questioned as to whether he had spoken to the jury during the night, replied:

"No, my lord. They kept calling out for me to bring them whiskey, but I always said, 'Gentlemen of the jury,

it is my duty to tell you that I'm sworn not to spake to you.'"

Tipstaff: What is your Christian name?
Witness: Solomon Isaacs.

I heard a judge his tipstaff call
And say, "Sir, I desire
You go forthwith and search the Hall
And send to me the crier."
"And search, my Lord, in vain, I may"—
The tipstaff gravely said—
"The crier cannot cry to-day,
Because his wife is dead."

Justice of the Peace Ford, of Martinez, California, who held that distinguished office at an early day, thought it essential to the dignity of his tribunal that it should be formally opened by constabulary proclamation. On one occasion the constable, feeling more than usually well, opened court in these stirring accents:

"Hear ye! Hear ye! the Honorable Justice's Court of Martinez is now open, pursuant to adjournment. Everybody will come to order, and everybody, whether plaintiffs or defendants, shall have fair play and an equal show!"

The justice called the constable to him, and officially rebuked him:

"What do you mean by such talk as that? What will become of my business if I give the defendant an equal show with the plaintiff? I am not safe with you here."

Thereafter the constable's formula was shorter.

Townshend, Charles.— When told that a newly-elected member of Parliament had written a work on logic and grammar, Townshend asked:

"Why does he come here where he will hear nothing of either?"

Townshend's brother was superseded as lord lieutenant of Ireland by Lord Harcourt, who, arriving unexpectedly in Dublin at three o'clock in the morning, found Townshend at a drinking party with some friends. Nothing abashed, he said to Sir Harcourt:

"Your lordship has certainly come among us rather unexpectedly, but you must admit that you did not find us napping."

Travers, William R.— The bright sayings and gentle stammer of Travers, of the New York bar, are widely known.

One of his best *bon mots* was inspired by the sight of the Siamese twins. After carefully examining the mysterious ligature that had bound them together from birth, he looked up blankly at them and said: "B-b-br-brothers, I presume?"

Travers went to a dog-fancier's to buy a rat-terrier.

"Is she a g-g-good ratter?" asked Travers, as he poked a little shivering pup with his cane.

"Yes, sir; splendid. I'll show you how he'll go for a rat," said the dog-fancier, and he put him in a box with a big rat. As the rat made one dive and laid out the frightened terrier in a second, Travers said: "I say, Johnny, w-w-what'll ye t-t-take for the r-r-rat?"

Henry Clews, the banker, during a talk with Travers, remarked that he was a self-made man.

"W-w-what d-did you s-say, Mr. Clews?"

"I say with pride, Mr. Travers, that I am a self-made man — that I made myself —"

"Hold, H-henry," interrupted Travers, "w-while you were m-m-making yourself, why the deuce d-did-didn't you p-put some more hair on the t-top of your h-head?"

Travers went into a bird-fancier's in Centre street to buy a parrot.

"H-h-have you got a-a-all kinds of b-b-birds?"

"Yes sir, all kinds," said the fancier.

"I w-w-want to b-buy a p-p-parrot."

"Well, here is a beauty. See what glittering plumage!"

"I-i-is he a g-g-good t-talker?"

"If he can't talk better than you can I'll give him to you." William bought the parrot.

"Why, Mr. Travers," said a lady, "you stammer more in New York than you did in Baltimore."

"B-b-bigger place," stammered Travers.

Travers met a man who told him that he had been cured of stuttering, and he gave Travers the recipe:

"You have only to wh-wh-wh-wh-ew (whistle) before every wh-wh-wh-ew word; that is what k-k-k-k- (whistle) cured my infirmity."

Underwood, William H.— Judge Underwood, of Georgia, had a keen sense of the humorous.

"Don't you think," said an attorney to the judge, "that Jim Pearson is the greatest liar you ever saw?"

"I should be sorry to say that of Brother Pearson," replied his honor, "*but he certainly wrestles harder with the truth than any other lawyer* on the circuit."

When Underwood had charged the jury, it was exceedingly dangerous for defendant's counsel to ask for additional instructions. Attorney Glenn had been defending a strapping big town-boy charged with assault upon a smaller boy. The big boy had been imposing upon little fellows, and one of them hit him with a switch and ran.

The big boy pursuing him threw a stone, cutting a gash in his head, and laying him up for a week or two. The judge charged the law fairly, and then asked if there was any other charge that counsel desired.

"I believe your honor omitted to charge that self-defence may justify an assault," said Glenn.

"Yes," said the judge, straightening himself up — "yes, gentleman, there is such a law, and if you believe from the evidence that this great, double-jointed, big-fisted young gentleman was actuated by fear and self-defence when he ran after that poor, little, puny, tallow-faced boy, and, because he couldn't overtake him, picked up a rock big enough to knock down a steer and threw it at him and knocked him senseless, then you can find for the defendant. Any other charge, Brother Glenn?"

"I believe not," said Glenn.

Underwood was once on his way, by rail, from Chattanooga to Atlanta, and the passengers were considering what hotels they should go to on their arrival. One of the party said:

"Let's go to Lloyd's; he's a Know Nothing."

"Oh," said the judge, "I shall stop at Thompson's; *he knows little enough for me.*"

Underwood was a staunch Clay Whig, but his son John was continually changing his politics.

"What are John's politics?" asked a friend.

"Really," said the judge, "I can't tell you; I haven't seen the boy since breakfast."

John applied to the judge for a letter of recommendation to Governor Crawford, of Georgia. It was immediately given, and, sure of his game, John put off to Milledgeville; but knowing his father's eccentricities, he

thought it prudent to open the letter, and, to his astonishment, read:

"*My Dear Governor:* This will be handed you by my son John. He has the greatest thirst for an office, with the least capacity to fill one, of any boy you ever saw.

"Sincerely yours,

"WILLIAM H. UNDERWOOD."

John subsequently ranked high among the eminent lawyers of his state.

Van Buren, John.— The neat, crisp witticisms of Van Buren, ex-attorney-general of New York, are proverbial. He once sauntered into court, and seated himself beside a friend who was conducting an important suit. After several questions had been put and exceptions taken, Van Buren, thinking that the ruling of the court was a little odd, asked, in his peculiarly quiet way:

"Who is on the other side of this case besides the judge?"

Van Buren was defending a prisoner in the criminal court. The prosecuting counsel—of small calibre, but immense bore—indulged in unnecessary personalities, and finally lost his case. This so chagrined him that he said to his courtly opponent in tones excited and angry:

"Mr. Van Buren, I should like to know if there is any case *so* paltry, or criminal *so* despicable, that you would not undertake to defend him?"

"Well, I don't know," replied Van Buren; "what have *you* been doing?"

One of Van Buren's first cases was *McPherson v. Rathbone*, in which he appeared for the plaintiff and obtained a verdict. He related with infinite zest the result of his cross-examination of an Irish witness from Hudson who testified in the case:

"Where do you live, sir?"

"My home is at Hudson."

"When did you come to Albany?"

"A day before yesterday, and one day before that, I am thinking."

"And how did you come, sir?"

"And it is how did I come that ye are after wanting to know?"

"Yes, that is precisely what I want to know."

"Well, you see I am here; what odds does it make how I came?"

"I want you to tell me how you got here, sir — did you come by land?"

"No, I didn't."

"By water?"

"No, I didn't."

"Now, sir, if you neither came by land or by water, I want you to tell me how you did get here."

"I came afoot, yer honor. Why don't you get at the 'English' of it, when ye ask questions? They say ye are larned in the English as yer father is before ye, although he is a Dutchman."

"The Irishman turned the laugh against me," said Van Buren, "and I was greatly crestfallen. The cross-examination of witnesses has never been a favorite practice with me, since my experience has taught me that more cases are injured than benefited by it."

Van Buren's readiness and effectiveness on the stump is shown in the following story:

He was making a speech in behalf of his father, President Van Buren, when an old Democrat rose and upbraided him as a bolter. Quick as a flash he replied to the charge.

One day, he said, a man on horseback came up with a boy who was contending with an overturned load of hay.

Instead of tossing the hay back into the wagon, the boy was tossing it hither and thither, regardless of where it landed. The traveler halted and said:

"My young friend, why do you work so furiously this hot weather? Why don't you throw the hay back into the wagon, and be more deliberate in your labors?"

The boy stopped, wiped his face with his shirt-sleeve, and pointing to the pile of hay on the roadside, said:

"Stranger, dad's under there!"

Then he set about his work again, more furiously than ever.

Vance, Zebulon B.— Senator Vest was once describing the limited means of the post-office in Kansas City:

"Why, Mr. President, I have seen waiting at the delivery windows a line of ladies half a mile long."

Senator Vance said:

"Mr. President, I wish to inquire if that is the usual length of women in Missouri?"

Verdict.— When a Welsh jury thought it right to acquit a prisoner, Baron Bramwell told them he hoped they had reconciled their consciences to their verdict, but by what process he was utterly unable to guess. It is only common charity to express a similar hope in every like case. One's faith in the "palladium of our liberties," however, often receives a rough shock by some more or less extraordinary verdict. Sir Francis Palgrave says that at the trial of a cause at Merioneth, the foreman of the jury said, "My lord, we do not know who is plaintiff or who is defendant, but we find for whoever is Mr. Flint's man."

An Irish foreman of a jury trying a man for murder was told that he would be paid two hundred pounds if he persuaded the jury to return a verdict of manslaughter.

This verdict was returned and the friends of the prisoner paid the money.

"Did you have much trouble in getting that verdict?" asked one.

"Faith an' I had an awful struggle; the rest of the jury wanted to acquit him, but, begorra, I wouldn't give way!"

Justice Maule indulged in a fine vein of irony because a counsel had put forward a plea so ridiculous that it could only have been used by a man who had no defence but was determined to say something. To his astonishment and disgust, however, the jury took him seriously, and gave a verdict in favor of the prisoner.

An Irish verdict: "Guilty, with some little doubt whether he is the man."

An illiterate jury having spent many hours in reaching a verdict, one of the jurymen was asked what the trouble was:

"Waal," he said, "six on 'em wanted to give the plaintiff $4,000, and six on 'em wanted to give him $3,000, so we split the difference and gave him $500."

A story is told of a trial for burglary, in which one of the jurymen seemed so certain of the prisoner's innocence, and pleaded so eloquently and so convincingly, that the eleven others (who had no particular bias either way) allowed themselves to be argued into returning a verdict of "not guilty." A few days later fresh facts came to light, proving the accused man's innocence beyond a doubt. One of the eleven jurymen, happening to meet with the man who had so powerfully influenced them all, thanked him warmly for having saved them from the commission of a great injustice. "And yet," he added, "as you could not have known then anything about these

new facts, how could you be so sure that the man was innocent?"

"Well, my chief reason for thinking that he did not commit the crime was, that *I committed it myself*."

Judge Grier, of the United States Supreme Court, once tried an ejectment case in Pennsylvania. The blundering jury having returned an unjust verdict, the judge said to the clerk:

"Mr. Clerk, that verdict is set aside by the court. It may as well be understood that in this state it takes thirteen men to steal a man's farm."

In the Southern States the color line is well drawn. This is amusingly shown by the reply of a colored juror at the Jones County Superior Court, in North Carolina. A negro was on trial for burglary. The jury consisted of four negroes and eight white men. During the night they came to a verdict which was received by the judge without awaking the solicitor, as the prosecuting officer in that state is called. The next morning the solicitor, Swift Galloway, while washing his face on the hotel porch, was surprised to see one of the negro jurors walk by.

"Hello, Jim," said he, "did the jury agree?"

"Yes, sah."

"How did the verdict go?"

"*Democratic*, sah."

Judge: "Gentlemen of the jury, your verdict is not in accordance with the evidence."

Foreman: "May it please the court, the evidence was not in accordance with the facts."

Some good stories are related of the late Sir Matthew Begbie, chief justice of British Columbia. Here is one of them:

In 1883 a man was charged in Victoria with having

killed another man with a sandbag, and in the face of the judge's summing up the jury brought in a verdict of not guilty. This annoyed the chief justice, who at once said:

"Gentlemen of the jury, mark that is your verdict, not mine. On your conscience will rest the stigma of returning such a disgraceful verdict. Many repetitions of such conduct as yours will make trial by jury a horrible farce and the city of Victoria a nest of immorality and crime. Go, I have nothing more to say to you." And then turning to the prisoner, the chief justice added: "You are discharged. Go and sandbag some of those jurymen; they deserve it."

Verdicts of a Welsh jury — the foreman presenting them: "Not guilty — but we recommend him not to do it again;" and "My lord, we find the man who stole the mare not guilty."

A Devonshire jury, having found a man guilty of stealing hay, added the following rider:

"We don't think the prisoner done it, but there's been a lot taken hereabouts by some one."

Long years ago Chief Justice Spencer, of New York, was holding court on Staten Island. The evidence against the prisoner charged with a high crime was clear, and the judge charged strongly against him. The jury brought in a verdict of not guilty. The commanding figure of the judge rose to its full height. "Prisoner," said he, in loud and severe tones, "you have had a most extraordinary escape from condign punishment, which you deserved; and you may be assured the time *will* come when you will be tried at *another* bar, where it is some satisfaction, *even now, to know that there will be no Staten Island jury to acquit you!*"

Verdict announced by the foreman of a Limerick jury: "Unanimous — nine to three."

In a criminal trial in Illinois, the judge instructed the jury that it was "the judge of the law as well as the facts," but added that it was not to judge of the law unless it was fully satisfied that it knew more law than the judge. An outrageous verdict having been rendered, the judge felt called upon to rebuke the jury. At last an old farmer on the jury said:

"Jedge, weren't we to jedge the law as well as the facts?"

"Certainly; but I told you not to judge the law unless you were clearly satisfied that you knew the law better than I did."

"Well, jedge, we considered that pint."

A prominent lawyer in the north of England was surprised occasionally by unexpected verdicts rendered by the juries. Meeting a juryman out of court, he ventured to inquire how he happened to arrive at a certain decision.

"Well," replied the juryman, "I'm a plain man, and I like to be fair to every one. I don't go by what the witnesses say, and I don't go by what the lawyers say, and I don't go by what the judges say; but I looks at the man in the dock, and I says, he must have done something or he wouldn't be there, so I brings 'em all in guilty."

"Soap the judge and butter the jury" was the advice of a successful barrister to a young attorney. By thus lubricating his fellow Englishmen, it is said that Sergeant Bond used to get a verdict in the words, "We finds for *Sergeant Bond*, and costs."

Judge: "Gentlemen of the jury, your verdict is decidedly mixed."

Foreman: "Yes, your honor; it is in accordance with the evidence."

Nearly two centuries ago Alexander Pope wrote:

> "The hungry judges soon the sentence sign,
> And wretches hang that jurymen may dine."

Waite, M. R.—Chief Justice Waite, of the Supreme Court of the United States, had a distressing experience. Like many great men he was very absent-minded. Having an imperative engagement at Baltimore, he adjourned court, and leisurely proceeded to the railroad depot. On reaching it, he had but ten minutes to get a ticket and a seat on the train. To his surprise, he quickly discovered he had only a few pennies in his pocket. He had neglected to provide himself with cash for the journey. There was no one present whom he knew. His engagement was important. What was to be done? He advanced to the ticket window, smiled in his pleasantest manner, and asked the ticket agent if he knew him.

"No, I don't," snarled the agent; "and, what is more, I don't want to. What do you want?"

"A ticket to Baltimore and return. I am the Chief Justice of the Supreme Court, but have no money with me. It is purely accidental. I can give you my personal check."

"Oh, I know you; I know all the bloods; but that dodge won't work at this office. I have just had two members of the Cabinet trying to 'bilk' me out of tickets, and no Chief Justice dodge gets me. Take your face from the window, and make way for people who have money."

The Chief Justice glared. He could not fine the young man for contempt of court. The case was beyond his jurisdiction. But he felt meaner than if he had been a real fraud. He blushed and perspired so that the agent

was confirmed in his opinion. The Chief Justice dashed out of the station to see if he could find some one to identify him. He had only five minutes left. It was too short a time to reach the Capitol. He saw no familiar face. Across the street was a saloon and eating-house. He made a hasty rush across, but checked himself at the door. What if he should be seen going into a common rum-shop? What if some one inside should know him? But there was no time to spare. Spying a private entrance, he dashed in and accosted the proprietor in a frantic haste, "Do you know me?"

"Bet yer head I do, yer honor," said the short-haired, freckle-faced man behind the bar. "Ye're the boss av the Shupreme Coort. I see ye every day goin' by here on the cars."

"Will you cash my check? I have no time to explain." Here the Chief Justice grabbed a piece of paper upon a desk near by and began to write hurriedly.

"Shure an' I will, yer honor. I've seen ould byes on a tear before get out o' money. Trust me, sorr. Is it a twenty ye want? Here it is. Will ye have a drop before you run?"

But, before any further explanation could be made, the Chief Justice had grabbed the money and was running across the street. In some way the ticket agent had learned of his blunder during the judge's absence, and was all politeness when he saw the money. The judge barely made the train, but he had not had such a shock to his dignity during his whole term upon the bench of the Supreme Court.

Walton, Charles W.—A *blasé*, conceited lawyer was telling Judge Walton, of the Maine Supreme Court, what it cost him to live:

"My personal expenses are something tremendous,

judge; now you just guess what it costs me to live a year."

The judge guessed solemnly and judicially.

"Oh! that is about half what I spend," replied the lawyer, with all the satisfaction of a man who has surprised another. His honor looked him over calmly and sympathetically and then said with deep concern:

"It costs you that to live, does it? Well, if I were you I would give up the struggle — it is not worth what you are paying."

Walworth, R. H.— Chancellor Walworth, of New York, marvelously rapid in his mental processes, frequently caused the bar annoyance by interrupting counsel and anticipating the points of their arguments. He saw or thought he saw where the arrow would strike while counsel were bending the bow; and he often grew weary listening for hours to the slow progress of prosy counselors, when he, himself, had long since reached his destination, and, as it were, put up for the night, and perhaps gone to sleep. Experience shows that it is shorter and better in the majority of cases to let counsel proceed without interruption.

A plain old counselor, plodding prosily along with his argument, was interrupted by Walworth, who was always anticipating counsel. The old counselor feelingly observed:

"Now, your honor, I am aware that you know a great deal more law than I do, but allow me to say that I know a great deal more about this case than you do. Why, your honor, I have lived with this case for twenty years; I have worked with it and slept with it; I know all its ins and outs; for twenty years I have digged and worked

with it; and I really wish your honor would let me go on in my own poor way."

He was allowed to proceed.

Walworth's discomfiture was only less signal than that of Curran's victim, whose habit of anticipation was so signally rebuked by the witty lawyer. The gentleman in question, a nobleman, had invited Curran, with others, to dinner, but Curran was late, and when he appeared was apparently in a state of great agitation. He attempted to excuse his tardiness by telling his host of a terrible tragedy of which he had just been an unwilling witness. As he was passing a market he observed a butcher about to kill a calf, when, just as the butcher had raised his knife, his little son, a beautiful child, ran between the knife and the calf, "and oh, my God!" said Curran, "the wretched man killed —" "The child! the child!" shrieked his lordship. "No, my lord," answered Curran, "the calf. Your lordship's anticipation is as usual incorrect."

Mr. Mulock, a witty Irish lawyer for whom Walworth did not entertain high respect, was asked by his honor:

"Mr. Mulock, will you permit me to ask who prepared these pleadings?"

"Yes, your honor; I did."

"Then I have only to say you should have consulted counsel."

"May it please your honor, I have not known whom to consult since your honor left the bar."

Members of the profession present were convulsed with laughter by this witty response.

Walworth once in a while caught a tartar when he anticipated counsel. Marcus T. Reynolds, having suffered from his disagreeable habit, determined to punish him, and so set a trap for him. In commencing an argument

Reynolds "supposed" a particular state of facts, and was slowly proceeding, when the chancellor broke in:

"Ah, I see, Mr. Reynolds, your point is so-and-so."

"No," replied Reynolds, gravely, "that isn't exactly it, your honor," and he then put forward a still more intricate hypothesis. The chancellor looked dubious for a moment, but shortly interrupted again:

"Yes, yes, Mr. Reynolds, I see, I see; this is your idea."

"No," said the imperturbable Reynolds again, "that isn't quite it, your honor;" and he put a third case. A third interruption and a third anticipation ensued, and then Reynolds significantly paused, drew himself up, and slowly observed, "No, your honor, *that* isn't it, and what is more, your honor never can *guess* until I tell you."

Ware, Eugene F.— Ware, of Fort Scott, Kansas, one of the bright literary members of the legal profession, is the author of humorous verse of a high order. His report of *State v. Lewis*, elsewhere in this volume, and *A Kansas Zephyr* are of lasting value. Of the latter, much admired by Hon. Thomas B. Reed, a friend says:

There is nothing conventional in Reed. He likes what takes his fancy without regard to whether it may be according to accepted standards or not. Nothing ever pleased him more than the verses of Eugene F. Ware, which he happened on by chance when they were first published. He wrote an appreciative note to Ware, and one of the rhymes which he regards about the cleverest bit of versifying in American literature he loves to recite to sympathetic listeners, rendering the lines with rare unction and telling emphasis. They are so characteristic of Reed in their discerning humor that here they are:

A Kansas Zephyr.

"Once a Kansas zephyr strayed
Where a cross-eyed bull-pup played,

And that foolish canine bayed
At that zephyr in a gay
Semi-idiotic way.
Then that zephyr in about
  Half a jiffy took that pup
  Tipped him over, wrong side up;
Then it turned him wrong side out,
And it calmly journeyed thence
With a barn and string of fence.

Moral:

When communities turn loose
Social forces that produce
  The disorders of a gale,
Act upon a well-known law,
Face the breeze, but close your jaw—
  It's a rule that will not fail.
If you bay it in a gay,
Self-sufficient sort of way
It will land you, without doubt,
Upside down and wrong side out."

Warner, Charles Dudley.— Warner, one of America's most popular essayists, studied law in the University of Pennsylvania, whence he was graduated and admitted to the bar in 1856. For four years he practiced law in Chicago. His delicate humor is reflected in the following from "My Summer in a Garden:"

"Speaking of the philosophical temper, there is no class of men whose society is to be more desired for this quality than that of plumbers. They are the most agreeable men I know; and the boys in the business begin to be agreeable very early. I suspect the secret of it is that they are agreeable by the hour. In the driest days my fountain became disabled; the pipe was stopped up. A couple of plumbers, with the implements of their craft, came out to view the situation. There was a good deal of difference of opinion about where the stoppage was.

I found the plumbers perfectly willing to sit down and talk about it — talk by the hour. Some of their guesses and remarks were exceedingly ingenious; and their general observations on other subjects were excellent in their way, and could hardly have been better if they had been made by the job. The work dragged a little, as it is apt to do by the hour. The plumbers had occasion to make me several visits. Sometimes they would find upon arrival that they had forgotten some indispensable tool; and one would go back to the shop, a mile and a half, after it, and his comrade would wait his return with the most exemplary patience, and sit down and talk — always by the hour. I do not know but it is a habit to have something wanted at the shop. They seemed to be very good workmen, and always willing to stop and talk about the job, or anything else, when I went near them. Nor had they any of that impetuous hurry that is said to be the bane of our American civilization. To their credit be it said that I never observed anything of it in them. They can afford to wait. Two of them will sometimes wait nearly half a day while a comrade goes for a tool. They are patient and philosophical. It is a great pleasure to meet such men. One only wishes there was some work he could do for them by the hour. There ought to be reciprocity. I think they have very nearly solved the problem of life — it is to work for other people, never for yourself, and get your pay by the hour. You then have no anxiety and little work. If you do things by the job you are perpetually driven; the hours are scourges. If you work by the hour you generally sail on the stream of Time, which is always bearing you on to the haven of Pay, whether you make any effort or not. Working by the hour tends to make one moral. A plumber working by the job, trying to unscrew a rusty, refractory nut in a

cramped position, where the tongs continually slipped off, would swear; but I never heard one of them swear or exhibit the least impatience at such a vexation, working by the hour. Nothing can move a man who is paid by the hour. How sweet the flight of time seems to his calm mind!"

Webster, Daniel.— Webster was a lawyer and statesman of great eloquence and splendid courage. His dominant intellectual characteristic — gravity — was brightened as by gleams of gold with rare touches of wit and humor.

In referring to Webster's success in many great cases, Mr. Hapgood, in his finely written biography, says:

One of them should be mentioned for an anecdote connected with it which lights up the nature of Webster's legal thought. In what is known as the Rhode Island case, a young attorney named Bosworth was sent to explain the facts and the conclusions reached by the lawyers who had prepared the case. Webster listened to the explanation and felt that something was wanting. "Is that all?" he asked. The young attorney then modestly offered a theory of his own, which his superiors had rejected. "Mr. Bosworth," exclaimed Webster, "by the blood of all the Bosworths who fell on Bosworth field, that is *the* point of the case." That, in the law as in politics, was the nature of his mind. With judgment and tact he listened to what others contributed and then he picked out *the* point and brought all his powers to bear on that. Hence the success of that fairness to opponents which made him state their arguments better than they had been able to formulate them for themselves. He could afford to give the opposition a powerful statement,

for he relied on no trick or subtlety, but on the clear presentation of deep-seated truths.

He smote the rock of the national resources, and abundant streams of revenue gushed forth; he touched the dead corpse of Public Credit, and it sprang upon its feet.
—*Eulogy on Alexander Hamilton.*

His wonderful eloquence appears in the following passage:

"When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on states dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood. Let their last feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, or a single star obscured, bearing for its motto no such miserable interrogatory as 'What is all this worth?' nor those other words of delusion and folly, 'Liberty first and Union afterwards;' but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart, 'Liberty and Union, now and forever, one and inseparable.'"

"We wish that this column, rising towards heaven among the pointed spires of so many temples dedicated to God, may contribute also to produce, in all minds, a pious feeling of dependence and gratitude. We wish, finally, that the last object to the sight of him who leaves his native shore, and the first to gladden his who revisits

it, may be something which shall remind him of the liberty and the glory of his country. Let it rise! let it rise, till it meet the sun in his coming; let the earliest light of the morning gild it, and the parting day linger and play on its summit."—*Address on laying the Corner-stone of the Bunker Hill Monument.*

A story told of his going to a country fair with his brother Ezekiel shows the characters of these brothers better than a chapter. Their father had given each of them a dollar to spend. When the boys got home Daniel was in gay spirits and Ezekiel was depressed.

"Well, Dan," said his father, "did you spend your money?"

"Of course I did."

"And Zeke, what did you do with your dollar?"

"Loaned it to Dan."

In declining the clerkship of the court of Hillsborough county, New Hampshire, he said, "I mean to use my tongue in the courts, not my pen; to be an actor, not the register of other men's actions."

The late St. George Tucker Campbell, of Philadelphia, a lawyer of great distinction, used to relate an anecdote illustrative of Webster's pre-eminent ability. Mr. Campbell said that having been retained in a somewhat famous case with Webster, who was detained by his senatorial duties at Washington, the conduct of the case through all the preliminaries devolved upon him, it being agreed that Mr. Webster should deliver the closing argument. "But," said Campbell, "day after day went by without bringing the great expounder, until the very last day before that on which the closing argument was to be delivered, and I was in despair. I was sitting in my room at the hotel, debating with myself what to do, when Web-

ster was announced. After the little civilities had passed, he asked me to tell him about the case.

"Why, Mr. Webster," said I, "is it possible you know nothing of the case?"

"Nothing whatever," said he, "tell me about it."

"I was utterly dumfounded, and pointing to a pile of testimony a foot deep on the table, I said: 'How am I to convey all that to you in the little time that is left us?'"

"Never mind details. Give me the case generally and the salient points."

"He sat down at the table opposite me, and I gave him a rapid synopsis of the case, which took two hours and more. One point I especially called to his attention. The opposing counsel were bent on securing a continuance of the case, while our interests demanded an immediate decision. As a reason against granting the continuance, I cited the fact that the other side had protracted the cross-examination excessively, occupying six days in the case of one witness.

"Mr. Webster bade me good-night after I had concluded, and went to bed. The next morning he came into court as serene and majestic as Jove himself, while I was nervous and apprehensive to the last degree. He began his address to the court with that slow, ponderous gravity so characteristic of him in the outset of his forensic efforts, then gradually warmed and quickened. I listened spellbound, for in essence it was nothing but what I had pumped into him in the two hours and a half talk of the day before. But how transmuted and transformed. To give you an idea of the transformation, I will take the point to which I have alluded. He rendered it thus:

"'They ask for a continuance! Why, may it please the court, they have taken at this hearing as much time

in the cross-examination as it took the Almighty to create the universe!'

"That represents the difference between his speech and my talk; my simple six days grew to the colossal figure I have described under the magic touch of his genius, and this instance was characteristic of the whole."

In a case he had tried and lost, one of the witnesses said to him:

"Mr. Webster, if I had thought we should have lost the case, I might have testified a great deal more than I did."

"It is of no consequence," said Webster, "the jury did not believe a word you said."

Daniel Webster struck me much like a steam-engine in trousers. — *Sydney Smith.*

Webster, on his way to Washington, was once compelled to proceed at night by stage from Baltimore. He had no traveling companions, and the driver had a sort of felon look, which produced no inconsiderable alarm with the Senator. "I endeavored to tranquilize myself," said Webster, "and had partially succeeded, when we reached the woods between Bladensburg and Washington (a proper scene for murder or outrage), and here, I confess, my courage again deserted me. Just then the driver, turning to me, with a gruff voice asked my name. I gave it to him.

"'Where are you going.'

"'To Washington. I am a Senator.'

"Upon this the driver seized me fervently by the hand, and exclaimed:

"'How glad I am; I have been trembling in my seat for the last hour, for when I looked at you I took you for a highwayman.'"

Webster wrote to the editor of a newspaper which referred to his private affairs, and especially to his not paying his debts:

"It is true that I have not always paid my debts punctually, and that I owe money. One cause of this is that I have not pressed those who owe me for pay. As an instance of this I enclose your father's note, made to me thirty years ago, for money lent him to educate his boys."

"When I was a student in Webster's office," says Judge Burbank, "he kept an office boy and made a practice of giving him all the coppers passed to him for change when doing his errands. One day Webster came to the room where I was sitting, his face all aglow with one of his benignant smiles, and said:

"'Mr. Burbank, that boy of ours will either make a smart man or become a great rascal. I gave him a quarter to buy a paper this morning, and he has brought me back nineteen pennies.' And the great man, laughing and enjoying the joke, swept the pennies with his hand from the table to the floor, allowing the boy to carry them off for his smartness."

Once while he was addressing the Senate, the Senate clock commenced striking, but instead of striking twice at two P. M. continued to strike without cessation more than forty times. All eyes were turned to the clock, and Webster remained silent until the clock had struck about twenty, when he thus appealed to the chair:

"Mr. President, the clock is out of order! I have the floor!"

Webster told the following anecdote, illustrative of the fine distinctions on which we build our judgments:

A tailor being examined in a capital case in which Webster was engaged was called to prove that he made

a certain coat for the criminal. On cross-examination he was asked how he knew the coat was his work.

"Why, I know it by my stitches, of course."

"Are your stitches longer than those of other tailors?"

"Oh, no!"

"Well, then, are they shorter?"

"No, they are not shorter."

"Is there anything peculiar about them?"

"No, I do not think there is."

"Then how do you dare to come here and swear that they are yours?"

This seemed a poser, but the witness was equal to it. Casting a look of contempt upon the examining lawyer, the tailor threw up his hands, and exclaimed, "Mercy on us! As if I didn't know my own stitches!"

The jury believed him and Webster said they were right.

A sharp man, having a small case to be tried at Nantucket, posted to Webster's office in great haste. It was a contest with a neighbor over a matter of considerable local interest, and his pride as a litigant was at stake. He told Webster the particulars and asked what he would charge to conduct the case.

"You can't afford to employ me; I should have to stay down there the whole week, and my fees would be worth more than the whole case is worth. I couldn't go down there for less than $1,000. I could try every case on the docket as well as one, and it wouldn't cost any more, and one case would take my time for the entire week, anyway."

"All right, Mr. Webster," quickly responded the Nantucketer. "Here's your $1,000. You come down and I'll fix it so you can try every case."

Webster was so amused over this proposition that he

kept his word. He spent the entire week in Nantucket, and appeared on one side or the other in every case that came up for hearing. The shrewd Nantucketer hired Daniel out to all his friends who were in litigation, and received in return about $1,500.

He had been shooting in the marshes at Marshfield, and employed a man to ferry him across a river. The ferryman declined payment, but remarked:

"This is Daniel Webster, I believe."

"That is my name."

"Well, now," said the ferryman, "I am told that you can make from three to four dollars a day, pleadin' cases up in Boston."

Webster replied that he was sometimes so fortunate as to receive that amount for his services.

"Well, now," returned the rustic, "it seems to me if I could get as much in the city, pleadin' law cases, I wouldn't be a-wadin' over these marshes in this hot weather, shootin' birds."

When Webster and his brother Ezekiel were together they had frequent literary disputes. On one occasion, after retiring to bed, they squabbled over a passage in one of their school books, and rising to examine some authorities accidentally set fire to their bed-clothes and nearly burned their father's dwelling. On being questioned the next morning in regard to the accident, Daniel remarked "that they were in pursuit of light, but got more than they wanted."

In a speech in Faneuil Hall, Webster was arguing in favor of the Maysville road bill. Mr. Otis sat near him on the platform. Webster proceeded as follows:

"I am in favor, Mr. Chairman, of all roads except — except." Here he stuck, and could not think of any ex-

ception. Otis saw his difficulty, and said to him in a low voice:

"Say 'except the road to ruin.'"

Webster heard it, and as if he had merely stopped for the purpose of making his remark more effective, repeated the whole as follows:

"I repeat it, Mr. Chairman, I am in favor of all roads except the road to ruin."

The wit in Otis in this instance was well met by the presence of mind in Webster.

During Webster's residence in Portsmouth, in his younger days, Judkins, a furniture dealer well informed and ambitious, was in business there. He was patronized by Webster, who often dropped into the shop to order or superintend the making of some piece of furniture. These opportunities of conversing with a man so learned as Webster were the delight of Judkins' life; and on the removal of the former to Boston, the payment of a considerable debt due Judkins was willingly left for future settlement. Attempts were made at various times to collect the debt—always in vain. Finally Judkins determined to go to Boston and see Webster himself. He reached the city after a long and fatiguing stage ride, and, making a Sunday toilet, proceeded to the large house on the corner of High and Summer streets.

"Is Mr. Webster in?"

"Yes," said the servant who answered the bell, "but he cannot possibly be seen; he is entertaining some Washington gentlemen—they are dining."

"Well, I'll come in and wait till dinner is over."

The puzzled servant decided to take the importunate stranger's name to his master. Fancy the surprise of Judkins at seeing Webster rushing upstairs and insisting upon the poor man's joining at the dinner table. He

would take no denial, and carried him forcibly, almost, introducing him as "My old and dear friend, Mr. Judkins, of Portsmouth," and seating him between a distinguished Bostonian and the Secretary of the Navy.

"I was for four mortal hours just as good as anybody," relates the worthy cabinet-maker; "my opinion was asked on a good many subjects, and they all seemed to think I knew a good deal. I was invited to visit them, and to go to Washington, and everybody asked me to drink wine with them; and I made up my mind never to ask for my bill again. I was a poor man, and needed money, but I had been treated as I never expected to be treated in this world, and I was willing to pay for it."

He was once engaged in a case in one of the Virginia courts. The opposing counsel was William Wirt, author of the "Life of Patrick Henry." In the progress of the trial Webster produced a highly respectable witness, whose testimony (unless disproved or impeached) settled the case, and annihilated Wirt's client. Wirt rose to commence the cross-examination, but seemed for a moment quite perplexed how to proceed. Quickly assuming a manner expressive of his incredulity as to the facts elicited, and coolly eyeing the witness a moment, he said: "Mr. K., allow me to ask you whether you have ever read a work called 'Baron Munchausen?'" Before the witness had time to reply, Webster quickly said, "I beg your pardon, Mr. Wirt, for the interruption; but there is one question I forgot to ask the witness, and if you will allow me the favor, I promise not to interrupt you again." Wirt, replying in the blandest manner, "Yes, most certainly," Webster deliberately and solemnly said to the witness: "Have you ever read Wirt's 'Patrick Henry?'" The effect was so irresistible that even the judge could not control his rigid features. Wirt himself joined in

the momentary laugh, and, turning to Webster, said: "Suppose we submit this case to the jury without summing up?" which was assented to, and Webster's client won the case.

Webster was invited to dinner with another equally famous by a gentleman of wealth, whose personal vanity was much more flattered by the entertainment of such guests than his mind could possibly be improved by them. The dinner was excellent.

"This, gentlemen," he remarked, in the manner of a lecturer, as the servant removed the cobwebs from a bottle and placed it upon the table, "this wine has been in my cellar for forty years. I bought it when I was a young man, and the interest, gentlemen, the interest upon what I paid for it would have amounted to —."

The statesman was beginning to tire of this dissertation and winked pleasantly at his confrere:

"Indeed," said he, reaching across the table and appropriating the bottle, "then suppose we stop the interest."

Webster was apt to over indulge himself at public dinners, but managed, when called upon, to make a speech — if a brief one. At Rochester, New York, he once delighted the company with the following:

"Men of Rochester! I am glad to see you; and I am glad to see your noble city. Gentlemen, I saw your falls, which, I am told, are one hundred and fifty feet high; that is a very interesting fact. Gentlemen, Rome had her Cæsar, her Scipio, her Brutus; but Rome in her proudest days had never a waterfall a hundred and fifty feet high! Gentlemen, Greece had her Pericles, her Demosthenes, and her Socrates; but Greece, in her palmiest days, never had a waterfall a hundred and fifty feet high.

Men of Rochester, go on! No people ever lost their liberty who had a waterfall a hundred and fifty feet high!"

On another occasion he said:

"Gentlemen, there's the national debt—it should be paid; yes, gentlemen, it should be paid. I'll pay it myself. How much is it?"

Webster's last days were given up to a fight of his powerful constitution against the inevitable, says Rev. Dr. Cuyler. The last time he walked from his bed to his window he called out to his servant, "I want you to moor my little yacht down there where I can see it from my window." "Yes, sir." "Then I want you to hoist the flag at the masthead, and every night I want you to hang the old lamp up in the rigging. When I go down I want to go down with my colors flying and my lamp burning."

Westbury, Richard B.—In his later life, Chancellor Westbury, when sitting regularly on the judicial committee of the Privy Council, met ex-Chief Justice Erle and asked him why he did not attend.

"For three very good reasons," said Erle; "because I am old, because I am deaf, and because I am stupid."

"These are no impediments," said Westbury; "—— is very old, —— is very deaf, and —— is very stupid, and yet we four make an excellent court."

Sir Charles Russell, referring to his method of professional work, says: "My rule is never to trouble about the authorities or case-law supposed to bear on a particular question until I have accurately and definitely ascertained the precise facts. This rule I got from Lord Westbury. When young at the bar, and pleading before him, I was plunging into citation of cases, when he very good-naturedly pulled me up, and said:

"Mr. Russell, don't trouble yourself with authorities

until we have ascertained with precision the facts; and then we shall probably find that a number of authorities which seem to bear some relation to the question have really nothing important to do with it."

No one could say a sharp or bitter thing with more complete coolness than Westbury. He remarked, with his misleading gentleness, when some one spoke of the Chief Justice of the Common Pleas, "I think that, with a little more experience, Bovill will probably make the worst judge in England."

Wetherell, Sir Charles.— When Campbell's proposed "Lives of the Lord Chancellors" was referred to at a dinner in Lincoln's Inn Hall, Wetherell remarked: "He has added a new pang to death."

Whiton, Edward V.— Of the anecdotes of Chief Justice Whiton, of the Supreme Court in the early days of Wisconsin, a few survive. His feet were remarkable for their symmetry and smallness. The expression of his face was sad, adding much to the plainness of his features. Isaac Woodle, a wit of the bar, said:

"If I could have Whiton's feet I would almost be willing to have his head."

Whiton in society was reticent, apparently absorbed in his own reflections. While dining in a hotel, those near him began discussing peat, large deposits of which lie in the Four Lake country. One of them said:

"Judge, what do you think of peat?"

"Pete! Pete!" replied the judge, as if startled from a reverie, "really I don't know him."

While at the bar, practicing over a large circuit — having retired for the night at a country tavern — a man came to his room desirous of having him take a case.

His grievance was that he had put his horse to pasture in the field of a neighbor, at an agreed price, and that a rattlesnake had bitten the horse, so that he died. He insisted that the owner of the field was liable for the value of the horse. Wishing to be rid of the fellow, Whiton said:

"Can't take your case. I am retained for the snake."

Wilkins, Charles.— Sergeant Wilkins was a great orator, and notably successful in jury trials. His sharp legal fencing with Baron Platt in the trial of *Armistead v. Wilde* is interesting. During the trial Wilkins put a question rather sharply to a witness called by him on behalf of the plaintiff. Platt reminded the learned Sergeant that he was examining his own witness.

"I admit, my lord, that it is my own witness, but we all well know that very frequently our own witnesses are not favorable witnesses."

"That is not the mode in which witnesses ought to be treated, because they are to be protected as well as ourselves."

"What have I done to call for protection?"

"The manner of addressing the witness is not such a manner as the witness ought to be addressed in."

"I am sure the witness himself did not so feel it. I have been spoken to by others above me with ten times more courtesy than that displayed by your lordship. I am not to be schooled and rated."

"You are not to be schooled or rated; but when you are irregular in your manner or conduct, I shall interfere."

"I submit to your lordship that I have not been irregular, either in manner or conduct."

"Of that I am the best judge."

"You are a judge."

"And I shall not forget to act as a judge."

"And I shall not forget that I am a barrister and a man."

In a case in which the plaintiff was a Jew, it is related that whilst Wilkins was cross-examining one of the plaintiff's witnesses, a stranger tapped him on the shoulder, and, whispering in his ear, said:

"Ask the witness whether he is not a Jew?"

"Why, you scoundrel," said Wilkins, "you are one."

"But it will prejudice the jury, sir."

Will.—Lord Neaves, one of the brightest Scotchmen of his time, will long be remembered as the author of "The Jolly Testator Who Makes His Own Will:"

Ye lawyers who live upon litigants' fees,
And who need a good many to live at your ease,
Grave or gay, wise or witty, whate'er your degree,
Plain stuff or Queen's Counsel, take counsel of me.
When a festive occasion your spirit unbends,
You should never forget the profession's best friends;
So we'll send round the wine and a light bumper fill
To the jolly testator who makes his own will.

He premises his wish and his purpose to save
All disputes among friends when he's laid in his grave;
Then he straightway proceeds more disputes to create
Than a long summer's day would give time to relate.
He writes and erases, he blunders and blots,
He produces such puzzles and Gordian knots,
That a lawyer, intending to frame the deed *ill*,
Couldn't match the testator who makes his own will.

Testators are good; but a feeling more tender
Springs up when I think of the feminine gender.
The testatrix for me, who, like Telemaque's mother,
Unweaves at one time what she wove at another;
She bequeaths, she repeats, she recalls a donation,
And she ends by revoking her own revocation;
Still scribbling or scratching some new codicil;
O, success to the woman who makes her own will!

'Tisn't easy to say, 'mid her varying vapors,
That scraps should be deemed "testamentary papers;"
'Tisn't easy from these her intention to find,
When, perhaps, she herself never knew her own mind.
Every step that we take, there arises fresh trouble.
Is the legacy lapsed? is it single or double?
No customer brings so much grist to the mill
As the wealthy old woman who makes her own will.

The law decides questions of *meum* and *tuum*,
By kindly consenting to make the thing *suum*.
The Æsopian fable instructively tells
What becomes of the oysters, and who gets the shells.
The legatees starve, but the lawyers are fed;
The seniors have riches, the juniors have bread;
The available surplus, of course, will be *nil*
From the worthy testators who make their own will.

You had better pay toll when you take to the road
Than attempt by a by-way to reach your abode;
You had better employ a conveyancer's hand
Than encounter the risk that your will shouldn't stand.
From the broad, beaten track when the traveler strays,
He may land in a bog or be lost in a maze;
And the law, when defied, will avenge itself still
On the man and the woman who make their own will.

Counsel (in a will contest): "Did you see Mr. Timson, the testator, a short time before his death?"

Witness: "Every day for a week before he died."

"What was his mental condition?"

"Very much unbalanced. He had a singular delusion which nothing could remove."

"What was the nature of the delusion?"

"Mr. Timson imagined he had made a will that could not be broken; he repeatedly said so. And he held to this delusion to the end."

A wealthy Irishman over seventy, about to die, called in a lawyer to make his will. His wife, grasping and covetous, was present. The preliminaries of the will

having been concluded, it became necessary to inquire about the debts due the estate. Among these were several of importance of which the old lady had been in ignorance. She was pleased to learn of these and that so much money would be forthcoming after the funeral.

"Now, then," said the lawyer, "state explicitly the amount owed you by your friends."

"Timothy Brown owes me fifty pounds; John Casey owes me thirty-seven pounds; and —"

"Good! good!" ejaculated the prospective widow; "rational to the last!"

"Luke Bowen owes me forty pounds."

"Rational to the last!" put in the eager old lady again.

"To Michael Liffey I owe two hundred pounds."

"Ah!" exclaimed the old woman, "hear him rave!"

To dispose of one's estate in poetry is as incongruous as digging with a jeweled spade. Still, several examples of rhymed wills exist. A solicitor wrote:

"As to all my worldly goods, now or to be in store,
I give them to my beloved wife, and hers for evermore.
I give all freely; I no limit fix;
This is my will, and she's executrix."

Maloney, a well-to-do Irishman, finding himself about to pass away, sent for his old attorney and friend O'Conor to come and make his will. Everything was in readiness, and the dying man said:

"Put down fifty pounds for masses up at the church for the repose of my soul."

The man scratched away, and then O'Conor said:

"What next, Mr. Maloney?"

"Put down two hundred pounds for the Little Sisters of the Poor. Have we that down, Mr. O'Conor?"

"I have, Mr. Maloney. What next?"

"Put down two hundred and fifty pounds for the Cork Orphan Asylum."

"What next, Mr. Maloney?"

"Put down one thousand pounds for me brother Pat. He don't nade it, but it's all the same. I can't carry it with me."

"What next, Mr. Maloney?"

So the work went on slowly, the dying man bringing himself up with an effort to the task, and O'Conor stopping now and then to draw his finger across his nose and sniff sympathetically. Finally the dying man said faintly:

"I think that is all I have to will."

O'Conor footed up the items, looked at the balance in the little old bank book, and said:

"No, Mr. Maloney, there's tin pounds yit."

The dying man lay absorbed in thought for a few minutes, and then said:

"O'Conor, put down that tin pounds to spind with the bhoys at me funeral."

O'Conor began to write; then he stopped, looked toward the bed with a puzzled expression, and asked softly:

"Mr. Maloney, shall I put it down to spend going to the funeral or coming back?"

The dying man lay very quiet for a few moments, as he studied the problem, and then with an effort replied:

"O'Conor, put down tin pounds to spind goin' to the funeral, for thin I'll be wid ye."

"I, Timothy Delona, of Barrydownderry, in the county of Clare, farmer; being sick and wake in my legs, but of sound head and warm heart: Glory be to God!—do make the first and last will the ould and new testament, first I give my soul to God, when it pleases Him to take it, sure no thanks to me, for I can't help it then, and

my body to be buried in the ground at Barrydownderry Chapel, where all my kith an' kin that have gone before me, an' those that live after, belonging to me, are buried, pace to their ashes, and may the sod rest lightly over their bones. Bury me near my godfather, Felix O'Flaherty, betwixt and between him and my father and mother, who lie separate altogether, at the other side of the chapel yard. I lave the bit of ground containing ten acres — rale old Irish acres — to me eldest son Tim, after the death of his mother, if she survives him. Teddy, my second boy, that was killed in the war of Amerikay, might have got the pick of the poultry, but as he is gone, I'll lave them to his wife, who died a wake before him. I lave to Peter Rafferty a pint of fulpoteen I can't finish."

A testator left all his estate to a monastery on condition that on the return of his only son, then abroad, the worthy fathers should give him "whatever they should choose." When the son returned home he went to the monastery, and received but a small share, the monks choosing to keep the greater part for themselves. A barrister, on mention of the case, advised him to sue the monastery, and promised to gain his cause. The suit was brought, and the ingenious barrister, in his argument to the court, said:

"The testator has left his son that share of the estate which the monks should choose; these are the express words of his will. Now it is plain what part they have chosen by what they keep for themselves. My client, then, stands upon the words of the will. 'Let me have,' says he, 'that part they have chosen, and I am satisfied.'"

Wirt, William.— Wirt, the distinguished advocate of Virginia, was Attorney-General of the United States for three full terms during the administrations of Monroe

and John Quincy Adams. His letter to his young friend, Francis W. Gilmer, is a golden treasury of wit and wisdom:

"RICHMOND, August 29, 1815.

"*My Dear Francis:* I received last night your letter of the 15th instant, announcing your arrival at Winchester, and thank you for this early attention to my anxiety for your welfare. We have you at last fairly pitted on the arena — stripped, oiled, your joints all lubricated, your muscles braced, your nerves strung, and I hope that ere long we shall hear that you have taken the victim bull by the horn, with your left hand,

—— durosque reducta
Libravit dextra media inter cornua caestus
Arduus, effractoque illisit in ossa cerebro,
Sternitur exanimisque tremens procumbit humi bos.

"I perceive that you are going to work pell-mell, *nec mora, nec requies;* that's your sort; give it to them thicker and faster!

Nunc dextra ingeminus ictus nunc ille sinistra.

"It is this glow and enthusiasm of enterprise that is to carry you to the stars. But then bear in mind that it is a long journey to the stars, and that they are not be reached *per saltum.* '*Perseverando Vinces*' ought to be your motto, and you should write it in the first page of every book in your library. Ours is not a profession in which a man gets along by a hop, step and jump. It is the steady march of a heavy-armed legionary soldier. This armor you have yet, in a great measure, to gain; to learn how to put it on; to wear it without fatigue; to fight in it with ease, and use every piece of it to the best advantage. I am against your extending your practice, therefore, to too many courts in the beginning. I would not wish you to plunge into an extensive practice at once. It will break up your reading, and prevent you from pre-

paring properly for that higher theatre which you ought always to keep intently in your mind's eye. For two or three years you must read, sir — read — read — delve — meditate — study — and make the whole mine of the law your own. For two or three years, I had much rather that your appearances should be rare and splendid, than frequently light and vapid, like those of the young country practitioners about you.

"Let me use the privilege of my age and experience to give you a few hints, which, now that you are beginning the practice, you may not find useless:

"1. Adopt a system of life as to business and exercise, and never deviate from it, except so far as you may be occasionally forced by imperious and uncontrollable circumstances.

"2. Live in your office — *i. e.*, be always seen in it, except at the hours of eating or exercise.

"3. Answer all letters as soon as they are received; you know not how many heartaches it may save you. Then fold neatly, indorse neatly, and file away neatly, alphabetically, and by the year, all the letters so received. Let your letters on business be short, and keep copies of them.

"4. Put every law paper in its place as soon as received, and let no scrap of paper be seen lying, for a moment, on your writing chair or tables. This will strike the eye of every man of business who enters.

"5. Keep regular accounts of every cent of income and expenditure, and file your receipts neatly, alphabetically, and by the month, or at least by the year.

"6. Be patient with your foolish clients, and hear all their tedious circumlocution and repetitions with calm and kind attention; cross-examine and sift them, till you know all the strength and weakness of their cause, and take notes of it at once whenever you can do so.

"7. File your bills in chancery at the moment of ordering the suit, and while your client is yet with you to correct your statement of the case; also prepare every declaration the moment the suit is ordered, and have it ready to file.

"8. Cultivate a simple style of speaking, so as to be able to inject the strongest thought into the weakest capacity. You will never be a good jury lawyer without this faculty.

"9. Never attempt to be grand and magnificent before common tribunals — and the most you will address are common. The neglect of this principle of common sense has ruined —— with all men of sense.

"10. Keep your Latin and Greek and science to yourself and to that very small circle which they may suit. The mean and envious world will never forgive you your knowledge if you make it too public. It will require the most unceasing urbanity and habitual gentleness of manners, almost to humility, to make your superior attainments tolerable to your associates.

"11. Enter with warmth and kindness into the interesting concerns of others, whether you care much for them or not, not with the condescension of a superior, but with the tenderness and simplicity of an equal. It is this benevolent trait which makes —— and —— such universal favorites, and, more than anything else, has smoothed my own path of life and strewed it with flowers.

"12. Be never flurried in speaking, but learn to assume the exterior of composure and self-collectedness, whatever riot and confusion may be within; speak slow, firmly, distinctly, and mark your periods by proper pauses and a steady, significant look. 'Trick!' True; but a good trick and a sensible trick.

"You talk of complimenting your adversaries. Take

care of your *manner* of doing this. Let it be humble and sincere, and not as if you thought it was in your power to give them importance by your *fiat*. You see how more natural it is for old men to preach than to practice; yet you must not slight my sermons, for I wish you to be much greater than I ever was or can hope to be. Our friend Carr will tell you that my maxims are all sound. Practice them, and I will warrant your success. You have more science and literature than I, but I know a great deal more of the world and of life, and it will be much cheaper for you to profit by my experience and miscarriage than your own. Nothing is so apt to tincture the manners of a young man with hauteur, and with a cold and disdainful indifference toward others, as conscious superiority; and nothing is so fatal to his progress through life as such a tincture; witness ——. My friend —— himself is not without some ill effect from it; and, since you must feel this superiority, I cannot be without fear of its usual effects.

"You must not suppose, because I give you precepts on particular subjects, that I have observed you deficient in these respects. On the contrary, it is only by way of prevention; and, whether my precepts are necessary to you or not, you are too well assured of my affection to take them otherwise than in good part. Farewell. My letters shall not be lectures.

"Yours affectionately, WM. WIRT."

INDEX.

Abaft the binnacle, 311.
Abandoned habits, 194.
Abatement, plea in, 207.
Abel, Cain and, 9.
Abernethy, Lord, 153.
Ability, acme of judicial, 218.
Abinger, Lord, 132.
Above one story, never, 476.
Abroad, schoolmaster, 59.
Absent-mindedness, 268, 479.
Absorption, drunk from, 418.
Absurd thing, when about to do an, 411.
Absurdities, heightening all the, 404.
Accent, catching the, 152.
  frightful, 352.
  musical, 141.
Accepting bail, 154.
Accident of an accident, 501.
According to the conscience, 459.
Acme of judicial ability, 218.
Acquittals, several, 465.
Across the Potomac, 453.
Act, as a judge, 536.
  legal tender, 205.
  of parliament, 372.
  repealed, 223.
  to amend an act, 292.
Action, a personal, 329.
  on a bill of exchange, 76.
Actor sequitur, 338.
Adage affirmed, French, 329.
Ad captandum populum, 251.
Added a new pang to death, 534.
Addressing a gentleman, 144.
Administration of justice, 356.
Admiralty, 1.
Admission to the bar, examination for, 200.
Admit it, I, 348.
Admitting yourself out of court, 327.
Advocate, a prosy, 442.
Affidavit, oratory of, 4.
Affirmed, French adage, 329.
Afraid of any court, not, 322.
Age of brass, succeeds the, 184.
Agree for the reasons, I, 411.
Agreement, a verbal, 181.
Agrees, still, 411.
Ahead, fifteen words, 474.
Air, walking in the, 312.
Airing his vocabulary, 150.
Alderson, Baron, 210, 332.
Alibi, 7.
All cry, little wool, 143.
  men are fools, 438.
Allen, John, 11.
Almanac, 93.
Almighty strike me, may the, 239.
Alone, riding, 361.
Aloud, thinking, 337.
Alps, like scaling the, 46.
Altering the mark, 292.
Althorp, Lord, 14.

Always on right side, 490.
Amber, in liquid, 430.
American, I am an, 235.
Ambiguity, old, 105.
Amend, act to amend an act, 292.
A mensa et thoro, 338.
Anatomy, 212.
Ancestors, 82.
Andrews, Charles B., 394.
And still they gazed, 81.
Angler of the first water, 458.
Anomalies, 14.
Answer, a rude, 442, 501.
a stupid, 179.
Anti-climax, 100.
Anticipating the argument, 519.
Antipathy to music, 364.
Antiquity, ruins of, 411.
Apologies, profuse, 114, 453.
Appeals, eloquent, 17, 422.
misdirected, 48.
Appear, for whom do you, 211.
Appearance, bond for his, 44.
presenting a sorry, 200.
Application, a novel, 326.
Apprehended, easily, 363.
Aptness of quotation, 423.
Arabin, Sergeant, 460.
Archdeacon, definition of, 14.
Architect, political, 151.
Argue it, wanting to, 433, 442.
Arguing both sides, 489.
Argument, anticipating the, 519.
fits, a case that the, 389.
long, 60, 168, 185.
of counsel, 293.
wrong, 41.
Arguments, interminable, 60.
making both, 489.
Aristotle's rhetoric, 490.
Armed at all points, 411.
Armstrong, Sergeant, 211.
Army at his heels, 459.
Arrest and stop, 386.
Art of knowing how, 291.
the basis, 290.
Ashman, William N., 28.
Ask my patients, 475.
Asking foolish questions, 494.
for a continuance, 525.
himself a question, 179.
Ass, emperor an, 440.
I'm an, 147.
in judicial robes, 435.
missing, the, 445.
solemn as an, 119.
Assailed, wherever it is, 346.
Assault demesne, son, 302, 407.
Assertion, reckless, 298.
Assignments of error, 32.
Atlantic, casting sovereign over 453.
Atom of humanity, miserable, 482.
Attention of the court, demanding, 74, 88, 236.
Attorney, an idle, 290.
-general of crime, 394.
Attorneys, repartee, 432.
retort, 432.
Attributable to his pen, 200.
Audience, 378.
Authorities, eminent, 284.
Autograph, 371.
Avery, Waitstill, 244.
A vinculo matrimonii, 338.

Babel, tower of, 133.
Bacon, Lord, 35, 245.
Bags, a question of, 442.
Bail, accepting, 154.
Bailey, the Old, 137, 377, 470.
Baldwin, Joseph G., 381, 415, 422.
Ball, Justice, 107, 405.
Balloon, like a, 412.

Bangs, John Kendrick, 161.
Bannatyne, Lord, 293.
Banner, never fight under that, 97.
Baptizing converts, 89.
Bar, examination for admission to the, 200.
failure at, 46, 87, 119, 174, 267, 281, 540.
nuisance to the, 393.
prisoner at the, 460.
success at the, 46, 87, 119, 174, 267, 281, 540.
Barbour, James, 86.
Bargain, clinches the, 481.
Bark at me, they, 426.
Barley, good for, 486.
Barnes, W. H. L., 113, 451, 484.
Barrington, Sir Jonah, 363.
Barrister, briefless, 288, 454.
a bullying, 447.
shall not forget I am a, 536.
Bartlett, Ichabod, 325.
Barton, George W., 435.
Basis, whose art the, 290.
Bates, Edward, 37.
Bayonet, used a, 466.
Beach, William A., 381, 451.
Beastly bellowings, 372.
Beecher, Henry Ward, 239.
Beef, hung, 363.
Before, stated, 442.
Begbie, Sir Matthew, 512.
Begins, there tyranny, 281.
Be just, fear not, 79.
Believe me or not, 326.
Bellowings, beastly, 372.
Bench, looking wise from behind the, 254.
once sat on the, 437.
Benedict, Kirby, 460.
Bengal tigers, ten thousand, 94.
Benjamin, Judah P., 87.
Bennett, George, 435.
Benton, Thomas H., 89.
Best has flaw, 290.
friends, the profession's, 536.
Justice, 237.
part of the case, 293.
Better ninety-and-nine, 180, 333.
pay toll, you had, 537.
read them, 151.
Between two lawyers, 289.
Beware of half knowledge, 46.
of the day, 421.
Bigamy, penalty for, 453.
Bigger fool than the judge, 433.
place, 506.
Biggest fool on earth, 433.
Bill of sale, 226, 385.
a true, 152.
Bind them, that will, 487.
Binnacle, abaft the, 311.
Birds, king of, 444.
of prey, 409.
Bishop greater than judge, 462.
Black as that man's heart, 54.
Jeremiah S., 40, 196, 217.
white, 379.
Blackguard, to the wall, 494.
Blackguards, gray-headed, 102.
Blackleg of the law, 391.
Black-letter law, 412.
Blackman, Daniel, 355.
Blackstone, Sir William, 491.
Blasphemy, rebuking, 300.
Bleckley, L. E., 33, 35, 41, 51.
Blockheads, 47.
Blots, he blunders and, 536.
Blunders and blots, he, 536.
Boatum v. Bullum, 277.
Bob-tail politician, 284.
Boiler, five-foot, 293.
Bond, 44.
George, 514.

Book of nature, 178.
Books, in the, 443.
not law, 330.
Boring, a science, 178.
Boundaries, state, 90.
uncertainty of, 37.
Bourbon, old, 168.
Bowen, Lord, 75.
Box-stall, 497.
Boyle, Chief Justice, 260.
Brackenridge, Hugh H., 292.
Bradley, Joseph P., 45.
Brady, James T., 46, 383.
Brain, concussion of the, 447.
Brains in all shapes, 472.
Bramwell, Lord, 52, 405, 510.
Brass, succeeds the age of, 184.
Brawl for hire, a, 394.
Braxfield, Lord, 52.
Breach of promise, 25.
Breaking, Sabbath, 386.
Brevity, 49.
Brewer, David J., 125, 127.
Brewster, Benjamin H., 54.
Bribery, 54.
Brice, Calvin S., 55.
Brick, found Rome, 58.
Brief, be, 49.
for sophistry, 90.
his first, 306.
of the law, 90.
Briefless barrister, 288, 454.
Brothers, 505.
Brougham, Lord, 57, 290.
Brown, David Paul, 129.
James T., 61.
Marshall, 254, 281.
Browne, Irving, 62.
Brute shyster, 396.
Brutus, Cæsar had his, 235.
Bubbles of life, 63.
Buffalo, fool from, 319.
Bull by the horns, 188.
-dog, a, 92, 423.
market, 486.
Buller, Francis, 63, 196.
Bullum v. Boatum, 277.
Bullying barrister, a, 447.
Bumblethorpe, Judge, 442.
Burbank, Justice, 527.
Burglary, 75, 498, 511.
Burgomaster, 420.
Burke, James Francis, 63.
Burke's speech on conciliation, 384.
Burleigh, Clarence, 66.
Burnand, F. C., 200.
Burr, Aaron, 67.
Burrowes, Peter, 268.
Bury them, 364.
Bushe, Charles Kendal, 67.
Business at half price, 390.
dispatching, 356.
none of his, 137.
Butler, Benjamin F., 69, 380.
Buying a parrot, 506.
Buzfuz, Sergeant, 1.
By-laws, constitution and, 92.
living on the, 92.

Cabinet, only unit in the, 58.
Cady, Daniel, 73.
Cæsar, had his Brutus, 235.
Rome had her, 532.
Cain and Abel, 9.
Call to-morrow, 267.
Calvin's Institutes, 479.
Camp, starvation, 160.
Campbell, John A., 74.
Lord, 27, 219, 341, 491.
St. George Tucker, 524.
Candidate for doorkeeper, 148.
Candle of the Lord, 94.
Can't, never say, 473.

Cantillena, repetition of the, 158.
Capacity, hadn't the, 488.
Capital punishment, 257.
Car, in a second-class, 440.
Carpenter, a jack-leg, 145.
Matt, 169.
Carpet-bagger, Yankee, 8.
Carry jury, witnesses and court, 187.
Case, a land, 186.
best part of, 293.
does not arise in the, 50.
for fees he moulds a, 290.
forgetting the facts in the, 212.
happens, when the, 103.
prima facie, 66.
rule in Shelley's, 66.
that the argument fits, a, 389.
theory of, 522.
this case that, 460.
water, 186.
winning the, 366.
Cases, seventy-eight, 412.
Casting a sovereign over the Atlantic, 453.
Castle, house his, 328.
Catching the accent, 152.
Catfish, a big, 454.
Catholic of his age, foremost, 368.
Cause-getting man, a, 323.
requires, the least his, 50.
Causes and effects, 184.
Cedar and vine, land of, 275.
Century, sleeping a, 364.
Cervera at Santiago, 276.
Chain, no man wear, 403.
Challenge, 245.
Chancellor's conscience, 459.
doubt, 177.
Chancery practice, 206, 459.
Channell, Sergeant, 501.
Chap like yourself, a red-faced, 446.
Character for truth and honesty, 448.
good, 78.
Charge of court, 50, 52, 54, 75, 333, 388, 507.
Charity for all, with, 294.
Charta, Magna, 103.
Chase, Salmon P., 74, 302.
Chatham, Lord, 328, 411.
Chelmsford, Lord, 500.
Chemistry, legislative, 41.
Child, father of the man, 339.
Chimney-sweep, 95.
Chitty, Joseph, 385.
Choate, Joseph H., 82.
Rufus, 69, 86, 87, 379, 385, 410, 472.
Choosing honest men, 437.
Chords of memory, the mystic, 294.
Chorus of the Union, 294.
Christian name, his, 504.
Christianity, no form of, 327.
Church, intended for the, 152.
Churchill, Lord, 94.
Ciphers, all, 58.
one and two, 436.
Circle, to the end of a, 85.
Circuit, going the home, 253.
Circumstances, mitigating, 460.
Citations, 283. 412, 534.
Civil law, principle of the, 491.
Clairborne, Justice, 117.
Clare, Lord, 95, 151.
Clarke, Richard, 478.
Class, a conservative, 402.
Classical music, 364.
Clause, the sweeping, 194.
Clay, Henry, 96, 209, 381, 425.
thou art the, 198.

Clayton, Justice, 434.
Clearest of all laws, self-defense the, 280.
Clearness, 52.
Clergyman, Jackson and the, 246.
Cleveland, Grover, 99.
Client, a fool for a, 329.
tickle my, 266.
unfortunate, 179.
unthought of, the, 404.
Climate, fine, 475.
Climax, anti, 100.
Clinches the bargain, 481.
Clipping his wings, 95.
Cloak of hypocrisy, 181.
Clock out of order, 527.
Clonmell, Lord, 240.
Close shave, a, 112.
Clown among lawyers, 393.
best, 99, 119.
Clowns, lawyer among, 393.
Coach-and-six, a, 372.
Cobbler's gone, the, 47.
Cobwebs, 281, 402.
Cockburn, Lord, 101, 145, 250.
Cockle, Sergeant, 496.
Code, revising, 31, 218.
Codeless myriad of precedent, 410.
Codicils, a few trifling, 5.
scribbling or scratching some new, 536.
Codification, Gibson on, 218.
Coelum, ruat, 35, 330.
Coke, Sir Edward, 35, 103.
Coleman, Richard H., 103.
Coleridge, Lord, 104, 199, 404, 453.
Collection for foreign missions, 199.
Colors flying, with my, 533.
Colt, James D., 164.
Columbus and Washington, 382.
discovered by, 382.
Coming to grief, 105.
Commission, five per cent., 308.
of the Lord, 308.
Committed himself, has not, 503
to jail, 292.
Committee, epitaph by vigilance, 188.
Common law, a principle of, 101.
indictment at, 281.
lawyer, great, 399.
procedure, 281.
sense, a diamond-pointed, 422.
sense, short of, 27.
sense verdict, 466.
tribute to, 282.
what is, 207.
Comparisons are odious, 329.
Competency of jurors, 255.
Competent to examine, 210.
Competition, patience, 230.
Compliments, 543.
Comprehending him, 62.
Concealing contempt, 116.
Conceit, disliking sham and, 228.
Concerned, much, 155.
Conciliation, Burke's speech on, 384.
Concussion of the brain, 447.
Condescending, truly, 390.
Condition, his mental, 537.
Conduct still right, 41.
Confession, 108.
Confiding with the honest, be, 129.
Confused ideas, 92.
statement of facts, 218, 326.
Confusing the court, 332.
Conkling, Roscoe, 85, 376.
Conscience and equity, 459.
Conscientious scruples, 256.
Conscious superiority, 544.
Consent, marriage is made by, 337.
Conservative class, a, 402.

Consideration in a contract, 206.
Considered the point, 514.
Constitution and by-laws, 92.
Constitutional questions, settling, 205.
Consultation, in, 153.
Contempt of court, 62, 110, 241.
Contingent fee, definition of, 66.
remainder, like a, 151.
Continuance, asking for a, 525.
Contract, consideration in a, 206.
Contrary to the form of the statute, 408.
Conversion, wrongful, 405.
Converts, baptizing, 89.
one of his, 244.
Convicted for less money, might have been, 376.
Convictions, former, 468.
Convincing of error, 293.
Cooley, Thomas M., 52.
Coram non judice, 330.
Cork and feathers, all, 253.
Corn, big, 165.
Corrupts, unlimited power, 281.
Corwin, Thomas, 118.
Costs, dismissed Hades with, 187.
on, peg to hang, 327.
Coudert, Frederick R., 119.
Council of Falaise, 291.
Counsel, interrupting, 435, 517, 535.
of guilt, the, 394.
the successful, 123.
Counterfeit money, passing, 389.
Counting present, 429.
Country lawyer, a, 73.
Countryman between two lawyers, a, 289.
Counts but the sands, 50.
Court, admitting yourself out of, 327.
Court, always please the, 385.
and its little wits, 90.
carry jury, witnesses and, 187.
charge of, 50, 52, 54, 75, 333, 388, 507.
confusing the, 332.
contempt of, 62, 110, 241.
demanding attention of, 74, 88, 236.
echo in the, 68.
fallibility of, 33.
first correct decision of the, 241.
infallibility of, 33.
interrupting counsel, 435, 517, 535.
listen and learn, 74.
make an excellent, 533.
not afraid of any, 322.
of errors, 207.
opening the, 504.
order in the, 333.
privateer of the, 393.
reversing the lower, 208.
United States Supreme, 90, 124, 225.
what is the supreme, 207.
will understand it, perhaps, 62.
Courts, fallibility of, 33.
of law, 288.
Cox, Sergeant, 127.
Crafty, be shrewd with the, 129.
Creation, the mute, 195.
Creature, a small insignificant, 330.
Credit, pledging all his, 153.
Creditors' letters, 216.
Creed, loyalty our national, 346.
Cried, the devil, 186.
Crime, attorney-general of, 394.
Criminal procedure, 203, 281.
to-day, make a, 290.

Criminals, defending, 97.
Criticising Shakespeare, 101.
Crop of fight, a small, 142.
Cross-examination, 58, 129, 394, 509.
Crossing the stream, 301.
Crowded with incompetents, 159.
Crowle, Sergeant, 434.
Crown, for the half, 377.
Crowns, 431, 458.
Cry, little wool, all, 142.
Cultivate a simple style, 543.
Cunning, forget its, 368.
Curator, 312.
Cured of stuttering, 506.
Curl, Hyperion's, 86.
Curran, John P., 95, 115, 148, 308, 343, 485.
Czar, rivaling a, 117, 431.

Damages, 224, 327.
Davis, David, 127.
Davy, William, 153.
Daw, no wiser than a, 280.
Day, Justice, 442.
Wm. R., 155.
Days may be long, that his, 69.
Dead-heat, a, 364.
Deaf and stupid, old, 533.
very, 261.
Deal as you like, 500.
Death, new pang to, 534.
Debt, the national, 253, 533.
Deceit and fraud, 208, 330.
Deceive the crowd, may, 379.
Decide, never give reasons, 41.
Deciding, trouble, 260.
Decision, Dred Scott, 224.
first correct, 241.
latest, 451.
may be right, 41, 310.
Decisis, stare, 34.
Declamation, loose, 379.
Declaration, demurring to, 62.
Declining a verb, 147.
Deed, in indenture or, 184.
uncertain description, 87.
without a name, 268.
De facto and de jure, 156.
Defects in the jury system, 264.
Defence, self, 280.
Defend the cause of liberty, 411.
wrong, never, 300.
Defending criminals, 97.
the tariff, 417.
Defined, statesman, 430.
Defining nothing, 136.
Delays of justice, 309.
Delenda est Carthago, 330.
Delusion, a mockery and a snare, a, 158.
had a singular, 537.
Demanding attention of the court, 74, 83, 236.
Demands, quibbling, 481.
Demerara team, 114.
De minimis non curat lex, 158.
Democratic, jury went, 512.
Demurrer, 62, 156, 194, 207.
Denman, Lord, 77, 158.
Depew, Chauncey M., 82, 158.
Descent and purchase, 40.
Description, uncertainty in, 87.
Desertion, 162.
Despatching business, 356.
Despising cant, hypocrisy and sham, 429.
technicalities, 178.
Destroyed, must be, 330.
Devil, cried, the, 186.
his due, 331.
plea of the, 71.
Diagrams, illustrating by, 62.
Die, never say, 90.

Die on the floor, 372.
what is the gain, 179.
Dies with the person, a personal action, 329.
Differ about the trimming, 459.
Difference, splitting the, 487, 511.
Different stories, 446.
Dignity, speaking of, 115.
Diligence, due, 286.
Dillard, John Henry, 440.
Dine, that jurymen may, 515.
Dinners, New England Society, 82.
Diploma, 475.
Diplomatic, 155.
Directors, flaying the, 94.
Discourage litigation, 304.
Discovered by Columbus, 332.
Dismissed Hades with costs, 187.
Dispensing with justice, 305.
Display of learning, undue, 400.
Distributive justice, 405.
Divorce, 161, 338.
Docket, stricken from, 250.
Docking an entail, 228.
Doctrine, heavy, 167.
Dodged all good, 331.
Dogma of future punishment, 186.
Dogs and all, the little, 426.
Doing, what have you been, 508.
Dollar, 199.
Domain, eminent, 224.
Done, half, 390.
let justice be, 330.
Donkey, accent on, 141.
his lordship, the, 496.
inspector, a, 420.
obstinacy in a, 197.
Donovan, J. W., 380, 481.
Dooly, John M., 165.
Doorkeeper, candidate for, 148.
Doubt, chancellor's, 177.
solving the, 43.
Doubts, had no, 478.
Douglas, Stephen A., 167, 294.
Down, strike when, 485.
Dowse, Richard, 168, 212.
Dream, past rises like a, 239.
Dred Scott decision, 224.
Driest speech of the session, 151.
Drink Scotch, 452.
Driscoll, Timothy, 372.
Dropping his h's, 501.
the watermelon, 484.
Drummond, Thomas, 169.
Drunk from absorption, 418.
Dry speech, a, 151.
Dudley, Justice, 78.
Due, devil his, 331,
diligence, 286.
Duel, 167, 244, 425, 444.
Duffy, seeing, 448.
Dull, very, 307.
Dullness, inoculated with, 434.
Duluth, 269.
Duo fulmina belli, 83.
Dust in his eyes, 391.
Duty to live unspotted, 74.

Ear, practice entirely by, 99.
Early rising, 313, 455.
Ears, deaf in both, 261.
Earth, shall not perish from the, 294.
Easily apprehended, 363.
East, wise men from the, 253.
Ecclesiastical patronage, 173.
Echo in court, 68.
Edition, second, 308.
Effect, in full force and, 5.
Effecting a recovery, 228.
Effects, causes and, 184.
Egotism, 43.
Either, never be, 430.
Ejectment, action of, 486.

Eked it out with law, 27.
Eldon, Lord, 114, 169, 220.
Elevation of the host, 67.
Ellenborough, Lord, 178, 388, 472.
Elm, a tough, 313.
Eloquence, Choate's, 87.
fountain of, 382.
is in the man, 378.
tangled, 179.
Eloquent appeals, 17, 423.
Else, little, 398.
Embezzlement, 94.
Emerson or Pythagoras, 88.
Eminent authorities, 284.
domain, 224.
Emperor an ass, 440.
Employed as a surgeon, 178.
Enamel, none of your, 251.
Encroaching on eternity, 102.
Endless punishment, 304.
Ends, where law, 281.
Enemies, but two, 430.
England Society Dinners, New, 82, 160.
worst judge in, 534.
English, good, 439.
in plain, 173.
Entail, docking an, 228.
Epigram, 183.
Episcopalian, an, 300.
Epitaph, 186, 197, 331.
E pluribus unum, 247.
Epoch, silurian, 399.
Equal to it, 68.
show, an, 504.
Equator, 250.
Equitable mortgage, 202.
position an, 410.
Equity, 288.
a roguish thing, 459.
a rule of, 101.
flexibility of law and, 176.
Equity, what is, 206.
Erle, Lord, 189.
Error, assignments of, 82.
convincing of, 293.
great and glaring, 85.
unrepentant, 330.
Errors, court of, 207.
full of, 308.
Erskine, Harry, 489.
John, 189.
Lord, 131, 184, 191, 382, 384.
Escape, a narrow, 306.
let no innocent man, 334.
ninety-and-nine, 180, 333.
Esher, Lord, 33.
Eskgrove, Lord, 260.
Estate, rescuing your, 290.
what is a fee-simple, 206.
Eternity, encroaching on, 102.
Evangelical, not, 304.
Evarts, William M., 198, 458.
Evidence, hearsay, 232.
held on no, 473.
in accordance with the, 515.
some, 76.
Examination for admission to the bar, 200.
cross, 129, 394.
Examine, competent to, 210.
Excellent court, make an, 533.
Excepting his honor, 181.
Exceptions, 85.
Excessive seizure, 405.
Exculpation, 452.
Excuse, an intemperate, 242.
Excuses no one, 333.
Exhibits, 212.
Existence nor origin, neither, 183.
Ex nudo pacto, 207.
Expenses, half the, 91.
Experience and skill, science, 8.
speaking from, 435.

Experience, with a little more, 96.
Expert, 38, 210.
Extorted by threats, 109.
Eyes, dust in his, 391.

Face, smiles in your, 340.
Facts, forgotten the, 212.
in order, 327.
not in accordance with the, 512,
statement of, 309, 404, 429, 533.
winning on, 399.
Fagots, 388.
Failure at the bar, 46, 87, 119, 174, 267, 281, 540.
Fair play, and an equal show, 504.
turn about, 342.
Faith, tolerant of every, 368.
Falaise, council of, 291.
Fall, though the heavens, 330.
Fallibility of courts, 33.
False, not a word, 326.
pride, 317.
Fame follows merit, 476.
trumpet of, 310.
Family prayers, 85.
Farm, thirteen men to steal a, 512.
Farmer Numskull, 447.
Farther I go west, the, 253.
Fashion's sake, not for, 311.
Fast and loose, playing, 169.
Fatal facility of speech, 52.
Fatally wounded, 497.
Father of man, child, 339.
Fathers, the Pilgrim, 82.
Fear not, be just, 79.
you not, I, 35.
Federal judiciary, 225.
Union, our, 247.
Fee, contingent, 66.
simple estate, what is a, 206.
Fees, he moulds a case for, 200.
Fees, statutory, 212.
substantial, 154, 282, 376.
who live upon litigants', 536.
Fellow to hang you, 169.
Fenians in court, 469.
Fiat justitia, 35, 330.
Field, Stephen J., 214.
Fight, a small crop of, 143.
outside judge in the, 254.
under that banner, never, 97.
Fine as Thurber's turkey, 100.
climate, 475.
Firing at a wig, 361.
Firmness in a king, 197.
the right, with, 294.
First brief, his, 306.
Fish, a big cat-, 454.
Fit for a judge to do, 103.
Fits, a case that the argument, 389.
Fitter for the steeple, 152.
Fitzgibbon, Lord, 153.
Flag, one, 346.
that does not follow the, 88.
Flash in the pan, a, 98.
Flaw, best has, 290.
Flaying the directors, 94.
Floodgates of the understanding, 189.
Fly, honesty, 185.
Follow one flag, we, 346.
Following the profession, 394.
Folly, wisdom led by, 98.
Food or light, without, 259.
Fool, 219.
all the people, 295.
for a client, a, 329.
from Buffalo, 319.
from the poorest, 99.
old, 439.
on earth, biggest, 438.
than the judge, bigger, 438.

Foolery governs the world, 459.
Foolish questions, asking, 494.
Foolishness, opinion for the, 90.
Fools, all men, 488.
Force and effect, in full, 5.
of habit, 387, 490.
Foreign missions, collection for, 199.
Forensic oratory, canon of, 18.
Forever, now and, 523.
Forgery, 211.
Forgetting it, no danger, 445.
Forgiveness, 371.
Forgotten much, I have not, 343.
the facts, 212.
Form of statute, contrary to, 408.
Former convictions, 453.
Forms, passing in review, sacred, 149.
Fought at Gettysburg, 126.
Found Rome brick, 58.
Foundation of wit, 193.
Fountain of eloquence, 382.
Fragment, a Socratic, 133.
Fraud, 208, 330.
Fraud and deceit, 208, 330.
defined, 208.
upon the profession, a, 393.
Freak, an anomalous, 16.
Freedom, a new birth of, 294.
synonym of, 294.
Freeholder, are you a, 257.
Friday, Good, 154.
Friends, the profession's best, 536.
to keep your, 413.
From the poorest fool, 99.
Front or rear, who goes to, 254.
Fuller, Melville W., 127.
Fullerton, William, 129.

Gadfly be, let the, 303.
Gain, sordid activity of, 282.
Gain, what is the, 179.
Gallows, the gaol supplied the, 281.
Garland, A. H., 215.
Garrow, Counselor, 188.
Gay, grave or, 536.
Gazed, and still they, 81.
General reputation, 448.
Genius at truth-telling, 155.
Gentleman, addressing a, 144.
no, 443.
of color, a, 108.
Gentlemen of the long robe, 268.
Georgia justice, charge of a, 81.
Gettysburg, fought at, 26.
Gibraltar, like the rock of, 180.
Gibbs, Chief Justice, 77.
Gibson, John Bannister, 32, 217.
Gift, oratory a natural, 382.
Give all freely, I, 538.
the devil his due, 331.
us the grain, 50.
Gladsome light of jurisprudence, 103.
Gloag, Sergeant, 435.
Glorious uncertainty, 340.
Glory of our institutions, 402.
God's side, one on, 403.
Golden rules, 118, 129, 468.
treasury, 541.
Gone to kingdom come, 89.
yet, not, 439.
Good character, 78.
dodged all, 331.
English, 439.
for barley, 486.
Friday, 154.
ratter, a, 505.
talker, 506.
Gordian knots, 536.
Gordon, Lord George, 180.
Gospel, a minister of the, 246.

Gould, Jay, 56.
Justice, 155.
Government of the people, 294.
Governor, talking to the, 230.
Governs the world, foolery, 459.
Gowns, 219, 435.
Grady, Barrister, 364.
Graham, Justice, 467.
Grain, give us the, 50.
Grammar and logic, 355, 504.
Grant, Sir William, 223.
Grave or gay, 536.
Great ass in judicial robes, 435.
common lawyer, 399.
feel that he is, 91.
lawyer, who's a, 50.
liars, handling, 166.
mind, his, 237.
Peter the, 287.
speech is one thing, 379.
Greater contains the less, 340.
Jew, 312.
the libel, 341.
truth, 341.
Greatest lawyer in Illinois, 348.
liar, the, 506.
Greek and Latin, 61, 543.
Greeley, Horace, 39.
Grey, Justice, 358.
Grief, coming to, 105.
Grier, Robert C., 224, 512.
Grosscup, P. S., 225.
Grows more loud, as it, 379.
Gruff judge, a, 442.
Grundy, Felix, 97.
Guess, the last, 207.
Guilt, the counsel of, 394.
Guilty, brings them all in, 514.
escape, 333, 334.
Gushed forth, streams of revenue, 523.
Habit, force of, 387, 490.
judicial, 490.
Habits abandoned, 194.
Hades with costs, dismissed, 187.
Hair, putting on more, 505.
Half-crown, for the, 377.
done, 390.
seas over, 311.
the expenses, 91.
Haliburton, Thomas C., 223.
Hall, William M., 220.
Hallett, Justice, 18.
Halsbury, Lord, 105.
Halt, 309.
Haman, hung them as high as, 249.
Hammond, Eli S., 75.
Hampton, Moses, 40.
Hand for everybody, a, 363.
forget its cunning, 368.
Hands in his pockets, 198.
with the jury, shaking, 437.
Handwriting, 76.
Hang a thief when young, 49.
costs on, peg to, 327.
wretches, 515.
you, fellow that's going to, 169.
Hanged, all but his lordship, 236.
if I don't, 193.
Hanging judge, 361.
on, 439.
Hannen, Lord, 263.
Happened, it just, 240.
Happens, when the case, 103.
Hardwicke, Lord, 281.
Harlan, John M., 126.
Harrington, Theophilus, 226, 458.
Harvard professor, a, 73.
Hat, the same, 369.
Hathaway, Samuel G., 226.
Hawkins, Henry, 229, 366.
Hazards, carry the jury at all, 93.

Head, in his sound old, 254.
lost his, 303.
nothing but the, 152.
that one small, 81.
when he shakes his, 153.
Heads of the manifesto, 251.
Heavens fall, though the, 331.
Heel, justice with leaden, 464.
Hear both sides, 331.
him rave, 538.
nothing, 218.
nothing of either, 504.
you, bound to, 179.
Hearsay, 232.
Heart for nobody, a, 363.
fountain of eloquence, 382.
Heartless old heptagon, 375.
Heaven, the keys of, 149.
Heavens fall, though the, 330.
Heavy doctrine, 167.
Held on no evidence, 473.
Henry, Patrick, 208, 234, 350.
Heptagon, heartless old, 375.
Here lies John Shaw, 186.
Hermand, Lord, 291.
Hern..it, living like a, 171.
Heywood, Samuel, 187.
Hide wisdom, manners, 472.
High as Haman, 249.
Higher nature, things of a, 342.
Highway robbery, 462.
Hilarity, a little honest, 189.
Hill, George, 313, 411, 412.
Walter B., 360.
Hinted, quoted and, 27.
Hire, a brawl for, 394.
Hiring a lawyer, jury, 76.
History, upon matters of, 303.
Hitchcock, Peter, 235.
Hoar, George F., 71, 284, 433.
Hocus-pocus science, law a, 340.
Hodman, no notion of turning, 151.
Holland, Baron, 261.
Holt, Lord, 236.
Honest as he is shrewd, 295.
hilarity, a little, 189.
judge, what is an, 208.
lawyer, here lies an, 186.
man, an, 367.
men, two, 390.
Honesty, fly. 185.
reputation for, 448.
Honor, a high sense of, 300,
has me, now your, 228.
Honor's law, different from his, 62.
Honyman, Justice, 53.
Hoosier law, 432.
Hope of the oppressed, the, 346.
Horns, bull by the, 183.
of the moon, 317.
Horse dealer, a, 143.
trade, a, 297.
working like a, 171.
Horses, swapping, 301.
Hospitality, 362.
Host, elevation of the, 67.
Hour, working by the, 521.
House, his castle, 328.
of Representatives, 432.
How, art of knowing, 291.
Huddleston, Baron, 143.
Humanity, miserable atom of, 482.
Humble origin, his, 501.
Hundred judges, a, 436.
ninety-nine in a, 501.
Hung beef, 363.
them as high as Haman, 249.
Hungry judges, the, 515.
Hunt, Ward H., 126.
Hurrah for Jackson, 415.

Husband and wife, 41.
her second, 84.
Hyperion curl, 86.
Hypocrisy, cloak of, 181, 429.
Hypocritical saint, a, 77.

Id certum est, 361.
Idea, never an, 173.
Ideas, confused, 92.
Idiot, an, 112.
Ignoramus, 152.
Ignorance of the law, 333.
Illinois, greatest lawyer in, 348.
Illustrating by diagrams, 62.
Illustration, a simple, 98.
Imagination, wings to his, 61.
Imitator, an, 446.
Imperishable, fresh, green and, 157.
Impossibilities, the law and, 342.
Impossible, 180.
Imprisonment, illegal, 77.
Improbable, highly, 180.
Improper sentence, 467.
Impulse, the pupil of, 41.
Impunity, with, 181.
Inadmissible, 325.
Incarnation of piety and virtue, 77.
Incog, traveling, 241.
Income tax, avoiding the, 74.
Incompetents, crowded with, 159.
Incorporated, ought to be, 436.
Incumbrance, notice of a, 201.
Indecision, noted for, 177.
Indenture or deed, in, 184.
Index, 237.
Indictment at common law, 281.
bill of, 152.
for words spoken, 204.
Infallibility of courts, 88.
Infernal contempt for it, 118.
Inflexible justice, 317.
Information for larceny, 6.
Informer, 289.
Ingersoll, Robert G., 237.
Inheritance, a small, 175.
tax, trying to escape the, 250.
Innocent man escape, let no, 334.
men, ninety-and-nine, 180, 333.
never thought of it, 326.
think you, 466.
Inoculated with dullness, 434.
Insane expert, 210.
Insanity, 210.
Inseparable, one and, 523.
Insignificant creature, a small, 330.
Inspector, a donkey, 420.
Instances, wilderness of single, 410.
Institutes, Calvin's, 479.
Institutions, glory of our, 402.
Insured, fully, 4.
Intemperance, 5, 25, 177, 240, 413, 417.
Interminable arguments, 60.
Interrupting counsel, 435, 517, 535.
Irish, when both sides are, 260.
tenantry, 200.
Issue, general and special, 206.
two sides to, 332.

Jackanapes, 307.
Jackson, Andrew, 244.
hurrah for, 415.
John J., 249.
Randle, 178.
Jail, committed to, 292.
Jefferson, Thomas, 209.
Jeffrey, Francis, 145, 250.
Jeffreys, George, 251.
Jekyll, Joseph, 184, 187, 253, 331, 398.

Jeremiah, lamentations of, 40.
Jerrold, Douglas, 280.
Jew, the greater, 312.
Job, honorable mention, 280.
Johnson, Andrew, 253.
Join to no party, we, 88.
Jolly testator, 536.
Judge, an excellent, 533.
bigger fool than the, 488.
bishop greater than a, 462.
district, 391.
function of a, 133.
gruff, 442.
hanging, 361.
improper manner of a, 110.
lays down the law, 281.
make a slow, 325.
more stupid, every, 92.
outside, 254.
pompous, 472.
sail in, why should the, 254.
soap the, 514.
sober as a, 240.
strict, 391.
stupid, 92, 533.
that keeps out of the fight, 254.
to do, fit for a, 103.
what is an honest, 208.
woman the best, 199.
worst in England, 534.
Judges, a hundred, 436.
interrupting counsel, 435, 517, 535.
of the law and the facts, 514.
repartee, 438.
retort, 438.
sleeping, 294, 432.
sneeze, when the, 410.
stupid, 92, 533.
the hungry, 515.
Judicial ability, acme of, 218.
habit, 490.
robes, a great ass in, 485.
Judiciary, the federal, 225.
Jug, danger of losing the, 244.
Juries, several kinds, 207.
Jurisprudence, gladsome light of, 103.
Juror, thirteenth, 254, 489.
Jurors, a light to, 36.
competency of, 255.
Jury, at all hazards, carry the, 93.
charge to, 50, 52, 54, 75, 333, 388, 507.
hiring a lawyer, 76.
need not go to the, 14.
on the, 45, 258.
riveting attention of, 18.
sat on the, 212.
shaking hands with the, 437.
system, defects in the, 264.
went Democratic, 512.
will prejudice the, 536.
witnesses and court, carry, 187.
Juryman, a plain, 514.
thirteenth, 489.
Just at the bottom, 185.
at the top, 185.
before, never, 434.
fear not, be, 79.
Justice, administration of, 356.
and law, 102.
be done, let, 330.
but little, 102.
charge of a Georgia, 81.
delays of, 309.
dispensing with, 305.
distributive, 405.
inflexible, 317.
of the peace, a, 81.

Justice with a leaden heel, 464.
Justinian, pandects of, 491.
Justitia fiat, 330.

Kames, Lord, 266.
Kansas zephyr, a, 519.
Kelley, William D., 266.
Kennedy, John P., 285.
Kent, James, 476.
Kenyon, Lord, 130, 267, 343.
Keogh, William, 211, 268.
Keys of heaven, 149.
Killed Abel, when Cain, 9.
Killing the truth, 413.
King, firmness in a, 197.
Kingdom come, gone to, 89.
Kirkpatrick, Andrew, 458.
Kitchen, Lent in the, 267.
Kites, 408.
Knots an hour, seven, 362.
  Gordian, 536.
Knott, J. Proctor, 269.
Knotty case, 290.
Know no North, I, 96.
  ye the land of cedar and vine, 275.
Knowing he is ugly, 91.
  how, art of, 291.
Knowledge, beware of half, 46.
  subtracting from, 480.
Knows little enough, 507.
Ku-Klux troubles, 8.

Labor, all things full of, 87.
Lachand, Maitre, 20.
Laches, without, 286.
Ladies, long, 510.
Lamb and sheep, 196.
  grows, older a, 196.
Lamentations of Jeremiah, 40.
Land case, a, 186.
  law of the, 476.
Land of cedar and vine, 275.
  of song and story, 476.
Landmarks on the seashore, 491.
Landseer, Sir Edwin, 101.
Languages, same in all, 173.
Lapsed, is the legacy, 537.
Larceny case, charge in a, 83.
  information for, 6.
  what constitutes, 204.
Larry in court, 491.
Later decision, 451.
Latin and Greek, 61, 543.
Latitude and longitude, 93.
Law, 277.
  and equity, 176.
  and facts, 514.
  and impossibilities, 342.
  as a jackanapes, as much, 307.
  blackleg of, 391.
  black-letter, 412.
  books, rot, 330.
  brief of the, 90.
  but little justice, 103.
  case, 533.
  citations, 283.
  defined, 67, 207, 277.
  different from his honor's, 62.
  eked it out with, 27.
  ends, where, 281.
  for revenue only, 289.
  for the rich, 338.
  glorious uncertainty of, 340.
  here, feel my, 291.
  hocus-pocus science, 340.
  Hoosier, 432.
  ignorance of the, 333.
  in the books, 443.
  judge lays down the, 281.
  lawless science of the, 410.
  lecture, notes for a, 304.
  limb of the, 186.
  maritime, 293.

Law, a measure for, 459.
mere repetition not, 158.
nine points of the, 339.
of right reason, 291.
of strikes, 185.
of the land, 476.
old spider of the, 281.
plenty of, 102.
procedure, common, 281.
quibbling over a, 169.
rudiments of the, 125.
scarecrows of, 280.
school, does not keep a, 235.
science of our, 410.
sharp quillets of, 280.
studying, 43.
suit, specimen of a modern, 157.
that is not the, 75, 325.
to succeed in the, 87, 119, 174, 267.
tribute to the common, 282.
victory in, 50.
where to find the, 443.
with every sort of, 50.
Lawrence, William, 283.
Laws, clearest of all, 280.
Lawyer, a country, 73.
among clowns, 393.
an honest man, 186.
great common, 399.
here lies an honest, 186.
Lawyer among clowns, a, 393.
a sound, 439.
hints to the young, 281.
his own, 329.
in Illinois, greatest, 343.
jury hiring a, 76.
of the south, 350.
pompous, 437.
rescues your estate, 290.
who matches a, 289.
Lawyer, who's a great, 50.
Lawyers, 285.
countryman between two, 289.
didn't make it, 280.
old, 285.
share, 446.
taking snuff, 410.
the rascals, 78.
when a knotty case was o'er, 290.
Lay and set, 409.
Leaden heel, justice with a, 464.
Leaders, referring to the, 97.
Leading questions, 500.
Lear, in the condition of old, 426.
Learn, court will, 74.
Learning o'er, a tedious tale of, 50.
undue display of, 490.
Least his cause requires, the, 50.
Lecture, notes for a law, 304.
Led by folly, wisdom, 98.
Lee, George H., 290.
Left, over the, 116.
Legacy lapsed, is the, 537.
Legal mechanics, 42, 218.
profession, following, 394.
rights of wife, 41.
tender act, 205.
Legend of a Dublin trial, 419.
Legislation, 291.
Legislative chemistry, 41.
Lent in the kitchen, 267.
Leonard, Abiel, 330.
Less, contains the, 340.
Let justice be done, 330.
no innocent man escape, 334.
the gadfly be, 303.
Letter of recommendation, 507.
Stanton's sharp, 301.
Wirt's golden, 541.
Letters, creditor's, 216.

Levy, Sampson, 209, 292.
Liar, be a thunderbolt to the, 129.
the greatest, 506.
Liars, handling great, 136.
Libel and slander, 196.
greater the, 341.
Liberty and union, 523.
of the press, 196.
reservoir of Roman, 181.
to defend the cause of, 411.
License, selling without, 289.
Lie ever told, peskiest, 159.
on this side, 439.
swearing to a, 366.
Lien, 293.
Lies an honest lawyer, 186.
John Shaw, here, 186.
like a dog, 418.
Life, bubbles of, 63.
for his natural, 460.
Light, by no reflected, 472.
in pursuit of, 529.
of jurisprudence, gladsome, 103.
to jurors, a, 86.
without food or, 259.
Like a balloon, 412.
a dream, past, 239.
a fish between two cats, 289.
marble statues, 181.
rock of Gibraltar, 180.
scaling the Alps, 46.
Limb of the law, 186.
Limit fix, no, 538.
Lincoln, Abraham, 141, 143, 211, 294, 481.
Line, state, 90.
Lined, lawyers' robes are, 290.
Liquidation, going into, 418.
Listen, if the court will, 74.
Listener, a good, 218.
Litigants, fees, who live upon, 536.
obstinacy of, 290.
Litigation, discourage, 304.
ornithology of, 42.
records of small, 42.
stirring up, 304.
Little else, 398.
enough, knows, 507.
honest hilarity, a, 189.
inheritance, a, 175.
justice, but, 102.
quibbling demands, 481.
wits, court and its, 90.
wool, all cry, 143.
Live like a hermit, 171.
upon litigants' fees, 536.
Living unspotted, 74.
Lochiel, 421.
Lockwood, Sir Frank, 305.
Rufus A., 432.
Logic, 307, 355.
and grammar, 355, 504.
of special pleading, 404.
reading from a work on, 355.
Long arguments, 60, 168, 185.
Longitude and latitude, 93.
Looking wise, 254.
Loomis, A. W., 308.
Loose declamation, 379.
playing fast and, 169.
Lord, candle of the, 94.
commission of the, 308.
nurture and admonition of the, 86.
Lordship, all hanged but his, 236.
Lose your temper, do not, 129.
Lost his head, 303.
its little wits, 90.
Loud, as it grows more, 379.
Louder, 319.
Lower regions, 475.

Lowry, Justice, 330.
Loyalty, our national creed, 346.
Lucid in order, 49.
Lucky, always, 490.
Lumpkin, Joseph H., 33.
Lungs, for strength of, 289.

MacNally, Leonard, 308.
Magna Charta, 103.
Majesty, his satanic, 287.
Majority, one on God's side, a, 408.
Makes his own will, 536.
Malice towards none, with, 294.
Man, child father of, 339.
in wit a, 314.
of straw, a, 327.
or negro, white, 297.
self-made, 505.
Manifesto, heads of, 251.
Manners often hide wisdom, 472.
teaching, 173.
Mansfield, Lord, 41, 259, 309, 331, 340, 412, 501.
Man's house his castle, 328.
Manson, Edward, 133.
Mare's nests, 183.
Margins, on, 436.
Maritime law, 293.
powers, we, 365.
Mark, altering the, 292.
Market, a bull, 436.
Marriage, 164, 213, 337, 338, 444.
Marshall, John, 235, 314.
Thomas F., 112, 319.
Thomas M., 320.
Martin, John L, 17.
Sir Samuel, 53.
Mason, Jeremiah, 323.
Master in chancery, 207.
Mastering the lawless science, 410.
Match the testator, couldn't, 536.
Matches a lawyer, who, 289.
Mattacks, John, 206.
Maule, George, 76, 77, 83, 326, 338, 466, 511.
Maxims, 158, 327.
Maynard, Sir John, 252, 343.
McCallum, Justice, 26.
McCartney, William H., 343.
McKinley, William, 346.
McLaws, William R., 329.
McSweeny, John, 23.
Meaning, might determine the, 184.
Means what he says, 155.
Meant to be understood, 437.
Measure, for law, a, 459.
Mechanics, legal, 42, 218.
Melodies, identical, 141.
Melody, what is a, 147.
Memory, mystic chords of, 294.
Men from the east, wise, 253.
honest, 390.
of Rochester, 532.
self-made, 402.
Menagerie, no, 254.
Mental condition, his, 537.
Merciful to the young, be, 129.
Merger of a term, 179.
Merit, fame follows, 476.
Merits, worst has, 290.
Merritt, Thomas, 348.
Messis sequitur sementem, 337.
Metaphor, talking, 343.
Methodist, a, 300.
Mill, a smoky, 497.
Mill-dam, 484.
Miller, Samuel F., 124.
Mind, his great, 237.
reading, 118.
resting his, 433.
Minister of religion, a, 246, 337.
Minutes, speaking to the, 356.
Mirehouse, Sergeant, 348.

Misdirected appeals, 48.
Miserable atom of humanity, 482.
Mis-fits, 125, 159.
-trial, 72.
Missing, the ass, 445.
Missions, collection for foreign, 199.
Missouri reports, only, 880.
Mistake, where he made a, 125.
Mistakes of the war, 18.
Mitigating circumstances, 460.
Mockery, a, 158.
Mode of stating everything, 404.
Modern law-suit, specimen of a, 157.
Money, for less, 376.
passing counterfeit, 389.
paying over the, 308.
Montague, Hill, 349.
Moon, horns of the, 317.
Moonlight, by, 142.
Morris, Lord, 351.
Mortgage, 202, 352.
Mortuary state, in a, 35.
Moses in the wilderness, 40.
Mother, his only, 181.
Mothers-in-law, 453.
Motions, 352.
Mount, sermon on the, 118.
Moving to quash the proceedings, 357.
Multum in parvo, 247.
Mum, orator, 148.
Munster meetings, 368.
Murder, 408, 460, 466.
Murphy and a big M., 319.
Music, antipathy to, 364.
classical, 364.
in his soul, no, 418.
of the Union, to the, 88.
Musical accent, 141.
Must be preserved, 247.
Mute creation, the, 195.
Mystic chords of memory, the, 294.

Name, deed without, 268.
his Christian, 504.
Napping, not caught, 505.
National creed, loyalty, our, 346.
debt, 253, 533.
resources, rock of our, 523.
Natural life, for his, 460.
way, in the, 434.
Naturalization, 358.
Nature, book of, 178.
things of a higher, 342.
Nautical almanac, 93.
Navigators, of signal service to, 491.
Neaves, Lord, 337, 536.
Negligence, 500.
Negro, white man or, 297.
Ne plus ultra, 247.
Nervous, made him, 323.
Nests, mare's, 183.
Nets, the laws are, 280.
Never above one story, 476.
an idea, 178.
be either, 430.
give reasons, 41, 310.
prove a tender made, 183.
put off until to-morrow, 67.
say can't, 473.
say die, 90.
stir up litigation, 304.
New crown, ordering a, 431.
England Society Dinners, 82, 160.
trial, motion for, 61, 189, 356.
Nice points, 494.
sharp quillets of the law, 280.
Nick, Old, 287.
Nine points, possession, 339.
Ninety-and-nine, better, 180, 333.

Ninety-nine innocent, 180, 333.
out of a hundred, 501.
Nisbet, E. A., 360.
Nisi prius, 63.
No, yes or, 53, 490.
Nominal damages, 327.
Non-commital, 503.
None of his business, 137.
Nonsense in him, no, 48.
Nonsuit, 35, 37, 42.
Norbury, Lord, 361, 427.
Norris, Justice, 52.
North, I know no, 96.
Lord, 364.
Norton, Sir Fletcher, 310.
Notable observation, a, 176.
Notes for a law lecture, 304.
Nothing but the head, 152.
defining, 136.
hearing, 218.
in it, 153.
more novel, 290.
of either, 504.
pledging, 153.
telling the truth for, 445.
Notice, giving, 355.
of a prior incumbrance, 201.
Novel application, a, 326.
nothing more, 290.
Now and forever, 523.
Nuisance, 262, 393, 497.
Numskull, farmer, 447.
Nurture and admonition of the Lord, 86.
Nye, James W., 365.

Oath, 366.
Obeyed, order must be, 480.
Object of contempt, an, 117.
Objection, an, 68, 325.
before passing on the, 433.
Observation, notable, 176.
speaking from, 435.
Observing the rules, 219, 355.
Obsolete statutes, 411.
Obstinacy in a donkey, 197.
of litigants, 290.
O'Connell, Daniel, 58, 240, 363, 367.
O'Conner, Justice, 356.
O'Conor, Charles, 376, 379.
O'Farrell, Garret, 428.
O'Grady, Baron, 68, 377.
O'Leary, Father, 149.
O'Loghlen, Sir Bryan, 181.
O'Malley, Justice, 464.
O'More, Rory, 491.
O'Reilly, James, 486.
Odious, comparisons are, 329.
Office, great thirst for, 508.
seekers, something for, 302.
Old ambiguity, 105.
bourbon, 168.
deaf and stupid, 533.
fool gone, 439.
head, in his sound, 254.
lawyers, 285.
Lear, in the condition of, 496.
Nick, 287.
parallelogram, 374.
spider of the law, 281.
woman, who is that, 169.
Older a lamb grows, 196.
Omnia Gallia, 12.
On pleader's tomb, 187.
One and inseparable, 523.
and two ciphers, 436.
at a time, 68.
flag, 346.
law for the rich, 338.
on God's side, 403.
on his side, the only, 263.
pound two, 309.

One, sixteen-to, 499.
stage from woolsack, 58.
Only mare's nests, 183.
Missouri reports, 330.
one on his side, 263.
Onus probandi, 84.
Opening the court, 504.
Opinion decides the question, my, 66.
for foolishness, 90.
formed an, 256.
his, 49.
not formed, 256.
not reading from the, 293.
Opposed to capital punishment, 255, 256.
Opposition, rats of the, 423.
Oppressed, the hope of the, 346.
Orator Mum, 148.
Oratory, 378, 403.
a natural gift, 382.
first canon of forensic, 18.
of the affidavit, 4.
Order, chronological, 327.
clock out of, 527.
facts in, 327.
in the court, 333.
lucid in, 49.
must be obeyed, 480.
Ordinance, an, 291.
Origin, his humble, 501.
nor existence, neither, 183.
Original, read the, 479.
Ornament, not merely for, 324.
Ornithology of litigation, 42.
Orphan, an, 25.
Oswald, James Francis, 83, 385.
Otis, Harrison Gray, 385, 529.
Our Federal Union, 247.
self-made men, 402.
side, 382.
Outside judge, the, 254.
Over the left, 116.
turn, 171.
Oyster, 'twas a fat, 280.

Page, Justice, 439.
mention the, 179.
Palgrave, Sir Francis, 510.
Pan, a flash in the, 98.
Pandects of Justinian, 491.
Papers, testamentary, 537.
Parallelogram, old, 374.
Parenthesis, like a long, 150.
Park, Allan, 110, 387, 404.
Parker, Amasa J., 476.
Parliament, act of, 372.
by privilege of, 309.
Parrot, buying a, 506.
Parry, Sergeant, 488.
Parsons, Theophilus, 379, 385.
Party, joining to no, 88.
Pass to Richmond, a, 301.
Passion, his ruling, 149.
week, 267.
Past rises like a dream, 239.
Pasture, sheep of his, 68.
Pathos, Curran's, 149.
Ingersoll's, 239.
Patience, competition, 230.
Patients, ask my, 475.
Patronage, ecclesiastical, 173.
Paying by the hour, 521.
over the money, 308.
Peace and rest, 43.
triumphant, 346.
Peg to hang costs on, 327.
Pen, attributable to his, 200.
Penalty for bigamy, 453.
Penuriousness, Kenyon's, 267.
People, fool all the, 295.
government of the, 294.

Perfection of wisdom, 281.
Perish from the earth, shall not, 294.
Perkins, Constantine, 333.
Eli, 389.
Perrot, Baron, 77.
Perseverando vinces, 541.
Person, dies with the, 329.
Personal action dies with the person, a, 329.
and real, 409.
Peter the Great, 287.
Peters, John Andrew, 389.
Richard, 390.
Petigru, James Louis, 219, 315.
Petroleum, 2.
Pettifogger, 21, 391.
Phillips, John F., 398.
Wendell, 367, 401.
Physician, 228, 435, 447, 474.
Picks your pocket, 340.
Piety and virtue, incarnation of, 77.
Pilate, Pontius, 112, 154.
Pilgrim fathers, 82.
Pilgrims, unhappy company of, 82.
Pitch, 2.
Place, bigger, 506.
Plain English, in, 173.
juryman, a, 514.
making it, 62.
Platt, Thomas, 85.
Play and an equal show, fair, 504.
Playing fast and loose, 169.
Plea in abatement, 207.
Pleader, a poor, 379.
Pleader's tomb, on, 187.
of the devil, 71.
Pleading, special, 404, 518.
Pleas, 50, 207, 302, 406.
Pleasing the court, 385.
Pledge, temperance, 5.
Pledging his credit, 153.
Pliancy of tongue, for, 289.
Plumber, the, 520.
Plunket, Lord, 332, 408, 438, 443.
Pockets, hands in his, 198.
Point, considered the, 514.
in the case, the, 522.
Points, armed at all, 411.
nice, 404.
understanding the, 262.
Policeman, affidavit of, 6.
Political architect, 151.
Politician, bob-tail, 234.
a successful, 430.
Politics, his, 507.
true theory of, 344.
Pollock, Baron, 409.
Pompous attorney, 437.
judge, 472.
Pontius Pilate, 112, 154.
Poor pleader, a, 379.
Poorest fool, from the, 99.
Porter, Justice, 468.
Possession is nine points, 339.
Possum, a red-eyed, 361.
Ridge literary society, 362.
Posterity, speaking for, 97.
Potomac, across the, 453.
Potters, we are the, 198.
Pound, two, one, 309.
Power corrupts, unlimited, 281.
of statement, his, 477.
Powers, maritime, 365.
Practice, chancery, 206.
entirely by ear, 99.
rules of, 219, 355.
Practicing by ear, 99.
Practitioners in the old law courts, 137.
the unpracticing, 289.
Prayers, family, 85.

Precedent, 303, 410.
Precepts, 544.
Precise time, 34.
Prejudice the jury, will, 536.
Prentice, George D., 412.
Prentiss, S. S., 350, 367, 414.
Present, counting, 429.
Preserved, must be, 247.
Presidency, after all hope of the, 402.
President, rather be right than be, 97, 430.
Press, liberty of the, 196.
Prey, birds of, 409.
Price, not worth the, 517.
of success, 87.
Pride, false, 317
Prima facie case, 66.
Principle of the common law, 101.
tracing to some, 158, 412.
wrong in the, 410.
Principles, not men, 344.
to common sense, reducing, 202.
Prior incumbrance, notice of, 201.
Prisoner at the bar, 460.
Privilege of parliament, by, 309.
Prize-fighter, 471.
Probandi, onus, 34.
Procedure, common law, 281.
criminal, 203, 281.
revising code of, 31, 218.
Proceedings, staying, 103.
Procrastination, 267.
Profession, a fraud upon the, 393.
crowded with incompetents, 159.
following the, 394.
Profession's best friends, the, 536.
Professor, a Harvard, 73.
Profuse apologies, 453.
Progress, every step of, 402.
Promise, breach of, 25.
Promptly, decide, 41.
Proof, no, 502.
Prosy advocate, a, 442.
Prove it, 348.
Punctuation, 184, 419.
Punishment, dogma of future, 186.
endless, 304.
opposed to, 255, 256.
Punning, 193.
Pupil of impulse, the, 41.
Purchase and descent, 40.
Puritan characteristics, 160.
Pythagoras or Emerson, 83.

Quarles, J. V., 420.
James, 211.
Quash the proceedings, moving to, 357.
Quashing the writ, 355.
Quay, M. S., 344.
Queen's Bench Reports, 326.
Question, asking himself a, 179.
of bags, a, 442.
resolved to repeat the, 378
Questions, asking foolish, 494.
constitutional, 205.
leading, 500.
Quibbling, demands little, 481.
over a law, 169.
Quillets of the law, 280.
Quorum, counting a, 429.
Quotation, aptness of, 423, 464.
familiar, 464.
Quoted and he hinted, 27.
Quoting Spanish, 19.

Railway speed, 500.
ticket, 214, 515.
Raine, Sergeant, 184.
Randolph, John, 318, 367, 452.
Rather be right, 97, 430.

Ratio, sub-multiple of a duplicate, 375.
Rats, did I say? 423.
Rave, hear him, 538.
Read law, I don't, 99.
something to, 290.
the original, 479.
them, better, 151.
Reading mind, 118.
the opinion, not, 293.
work on logic, 355.
Real, personal and, 409.
Reason, by the law of right, 291.
Reasoning out, a labored length of, 50.
Reasons, never give, 41, 310.
three, 533.
Rebels, saving the, 304.
Rebuking blasphemy, 300.
Receipt, 426.
Reckless assertion, 298.
Recommendation, letter of, 507.
Record, satisfaction on the, 427.
Records of small litigation, 42.
Recovery, effecting a, 228.
Redesdale, Lord, 408, 427.
Reed, Thomas B., 205, 378, 429, 436, 519.
Referee, 390, 471.
Referring to the leaders, 97.
Reflected light, by no, 472.
Reflection, a strong, 362.
Regions, lower, 475.
Religion, a minister of, 327.
every man his, 459.
what, 327.
Remainder contingent, like a, 151.
Remarked yesterday, as I, 432.
Remedied, shall be, 330.
Renouncing the inheritance, 250.
Repartee, attorneys, 432.
judges, 438.
Repartee, witnesses, 445.
Repeal, for, 372.
Repealed, act, 223.
Repetition, mere, 158.
Replevin, what is, 203.
Replies to toasts, 28, 82, 343, 349, 476.
Reporters, beating the, 369.
Reports, only Missouri, 330.
Queen's Bench, 326.
Representatives, House of, 432.
Reptile shyster, 396.
Republican then, a, 73.
Reputation for honesty, 448.
general, 448.
Rescues your estate, 290.
Reservoir of Roman liberty, 181.
Resign, asking him to, 409.
Rest, in the matter of, 43.
Resting his mind, 433.
Retained for the snake, 535.
Retort, attorneys, 432.
judges, 438.
witnesses, 445.
Revenue only, for, 289.
streams of, 523.
Reversing the lower court, 208.
Review, sacred forms passing in, 149.
Revising the code, 81, 218.
Revocation, revoking her own, 536.
Revoking her own revocation, ends by, 536.
Reynolds, Marcus T., 518.
Rhetoric, Aristotle's, 490.
Rich, one law for the, 338.
Richmond, a pass to, 301.
Ridiculous in it, anything, 152.
Riding alone, 361.
Ridley, Justice, 467.
Right, all, 236.

Right and equity, 188.
as God gives us to see the, 294.
decision may be, 41, 310.
firmness in the, 294.
reason by the law of, 291.
side, always on, 490.
than be president, rather be, 97, 430.
was nothing, the, 404.
when, 385.
Rises like a dream, 239.
Rising, early, 313, 455.
Road, rule of the, 184.
Roads, in favor of all, 529.
Rob, whom did he, 377.
Robbed, Mangan never, 419.
twice, 419.
Robbery, convicted of, 462.
my son's, 377.
Robe, gentleman of the long, 288.
Robertson, Lord, 115.
Robes are lined, lawyers', 290.
in judicial, 435.
Rochester, men of, 532.
Rock of Gibraltar, like the, 180.
smote the, 523.
Roguish thing, equity a, 459.
Roman liberty, reservoir of, 181.
Rombauer, Justice, 443.
Rome brick, found, 58.
had her Cæsar, 532.
in its palmiest days, 532.
Romer, Lord, 411.
Rory O'More, 491.
Rose, Sir George, 185.
Rosekraus, Enoch H., 451.
Ross, John, 282.
Rudiments of the law, 125.
Ruffian, be rough to the, 129.
Ruins of antiquity, 411.
Rule of the road, 184.
in Shelley's case, 66.
Rule of equity, a, 101.
Rules, golden, 118, 129, 468.
observing the, 219, 355.
Ruling passion, his, 149.
Russell, Lord, 107, 452, 533.
Ryan, E. G., 391.

Sabbath breaking, 386.
Sacred forms passing in review, 149.
Saddest people, speaking for the, 368.
Sagacity, 422.
Saint, a hypocritical, 77.
Sale, bill of, 226, 385.
Same in all languages, 173.
Sampson, Admiral, 276.
Sands, David, 407.
Sat on the bench, 437.
Satanic majesty, his, 287.
Satisfaction on record, 427.
Saunders, R. M., 453.
Saving his soul, 408.
the rebels, 304.
Saxe, John G., 186, 454.
Say, can't, never, 476.
die, never, 90.
what we all, 434.
Says, means what he, 155.
Scaffold to scaffold, from, 402.
Scarecrow of the law, 280.
Scarlett, Sir James, 132, 140.
Scates, C. W., 224.
Schley, Commodore, 276.
School, does not keep a law, 285.
Schoolmaster abroad, 59.
Science, boring a, 178.
experience and skill, 8.
law a hocus-pocus, 340.
mastering the lawless, 410.
Scotch vote, 452.
Scott, Sir Walter, 457.

Scoundrel, 362, 447, 536.
Scruples against punishment, 256.
Seal, 458.
Seashore, landmarks on, 491.
Second-class car, in a, 440.
Seeing Duffy, 448.
Seizure, excessive, 405.
Selden, John, 459.
Self-defense, 280.
-made man, 402, 505.
Selling without license, 289.
Sense, when I cannot talk, 343.
would have more, 102.
Sentences, 103, 229, 338, 348, 362, 460, 515.
Sentiment, what is, 402.
Sermon on the mount, 118.
Services, value of, 282.
Serving a writ, 4.
Session, driest speech of the, 151.
Set, lay and, 409.
-off, 50.
Settling constitutional questions, 205.
Seward, William H., 300, 303.
Seymour, Sir Digby, 452.
Shakes his head, when he, 153.
Shakespeare, criticising, 101.
Shaking hands with the jury, 437.
Sham and conceit, disliking, 228.
Share, lawyers', 446.
Sharp quillets of the law, 280.
Sharswood, George, 33.
Shave, a close, 112.
Shaw, here lies John, 186.
Lemuel, 89, 471.
Sheep, lamb and, 196.
of his pasture, 68.
stealing, 266.
Sheepish it becomes, more, 196.
Shell, take ye each a, 280.
Shelley's case, rule in, 66.
Sherman, Roger M., 473.
Sherwood, Thomas A., 330.
Shining by no reflected light, 472.
Shovel and spade, 306.
Show, an equal, 504.
Shrewd, honest as he is, 295.
with the crafty, be, 129.
Shuttlecock, exactly a, 253.
Shyster, 391.
Side, only one on his, 268.
our, 332.
wrong, 332.
Sides are Irish, when both, 260.
Sign, soon the sentence, 515.
Signal service to navigators, 491.
Silurian epoch, 399.
Sitting at nisi prius, 63.
Sixteen-to-one, 499.
Size, about your own, 330.
Skeleton, a mere, 180.
Skill, science, experience and, 3.
Slander and libel, 307.
Sleeping a century, 364.
judges, 294, 432.
Slow judge, make a, 325.
Small insignificant creature, a, 330.
litigation, records of, 42.
Smith, James, 185.
John W., 281.
Sydney, 58, 250, 332, 526.
Smoky mill, a, 497.
Smote the rock, 523.
Snake, retained for the, 535.
Snare of his speech, 96.
Sneeze, when the judges, 410.
Snuff, take a pinch of, 410.
Sober as a judge, 240.
Soldier defence, old, 26.
no, 152.
Solemn affidavit, violating a, 5.
as an ass, 119.

Son assault demesne, 302, 407.
Song and story, land of, 476.
Sophistry, brief for, 90.
Soul, no music in his, 418.
of wit, 49.
saving his, 408.
Sound lawyer, a, 439.
old head, in his, 354.
South, I know no, 96.
lawyer of the, 350.
Sovereign over the Atlantic, 453.
Sovereigns of sovereigns, 280.
Spade and shovel, 306.
Spanish, quoting, 19.
Speaking for posterity, 97.
from observation, 435.
to the minutes, 356.
Special pleading, 404.
Specimen of a modern law-suit, 157.
Speech, a dry, 151.
a forty years', 168.
fatal facility of, 52.
lowest terms for a, 161.
read his last, 153.
stuff not your, 50.
Speed of train, 500.
Spencer, Ambrose, 518.
Joshua A., 478.
Spider of the law, old, 281.
Splitting the difference, 487, 511.
Spoken for the cause, 324.
Spooner, Allen C., 356.
Stake to stake, from, 402.
Stanton, Edwin M., 301.
Stare decisis, 84.
Stars and stripes, 403.
Started where most reasoners end, 428.
Starvation camp, 160.
State line, 90.
mortuary, 35.
State trials, 251.
Stated that before, 442.
Statement of facts, 309, 404, 429, 477.
Staten Island jury, a, 513.
Statesman defined, 430.
truth from, 402.
Statues, like marble, 181.
Statute against it, 291.
contrary to form of, 408.
obsolete, 411.
what is a, 291.
Staying proceedings, 103.
Steal a farm, thirteen men to, 512.
thou shalt not, 101.
Steam-engine in trousers, 526.
Steeple, fitter for the, 152.
Stein, Philip, 440.
Stenography, 473.
Stephen, Justice, 332.
Stephens, Alexander H., 474.
Stevens, Thaddeus, 116, 475.
Stevenson, George, 277.
Stewart, William M., 284.
Stick together, must, 474.
Stop, arrest and, 386.
it, two hundred if you can, 438.
Stories, different, 446.
Story, Joseph, 49, 324, 379, 476.
never above one, 476.
Stowe, Edwin H., 322.
Stowell, Lord, 175.
Straw, a man of, 327.
Stream, when crossing the, 301.
Streams of revenue gushed forth, 523.
Strength of lungs, for, 289.
Stricken from the docket, 250.
Strict judge, 391.
Strike me, may the Almighty, 229.
when down, 4, 485.

Strike with the mass of thought, 49.
Strikes, law of, 185.
Stripes, stars and, 408.
Stripped of verbiage, 489.
Strong, William, 126.
Strother, Francis, 476.
Strout, A. A., 437.
Study from morning till night, 378.
Studying mind reading, 118.
Stuff not your speech, 50.
Stupid answer, a, 179.
judges, 92, 533.
old and deaf, 533.
Stuttering Curran, 148.
Travers, 505.
Style, cultivate a simple, 543.
Subpœna, 826.
Subscribe, wouldn't, 365.
Subtracting from knowledge, 430.
Succeed in the law, to, 46, 87, 119, 174, 267, 281, 540.
Succeeds the age of brass, 184.
Success at the bar, 46, 87, 119, 174, 267, 281, 540.
Successful counsel, 123.
politician, a, 430.
Sugden, Sir Edward, 59.
Suicide, temptation to commit, 197.
Summing up of Mansfield, Thurlow's, 501.
Sumner, Charles, 479.
Sunshine of an open heart, 282.
Superiority, conscious, 544.
Sure to be wrong, 41, 310.
Surety, 154.
Surgeon, employed as a, 178.
Sutherland, Josiah, 479.
Swapping horses, 301.
Swearing, makes his living by, 211.
to the truth, 366.
Sweeping clause, the, 194.
cobwebs, 402.
Swimmingly, getting on, 362.
Swindle him out of his throne, 288.

Tact, 480.
Taddy, Sergeant, 110.
Take ye each a shell, 280.
Tale, who draws a tedious, 50.
Talent and tact, 480.
Talk sense, when I cannot, 343.
Talker, a good, 505.
Talking sense, 343.
to rest his mind, 433.
to the governor, 230.
Tariff, bill, a, 419.
defending the, 417.
Taste, definition of, 174.
Tax returns, 74.
titles, 37.
trying to escape the inheritance, 250.
Taylor, Colonel, 18.
Team, Demerara, 114.
Technical terms, mastering, 201.
Technicalities, despising, 178.
Tedious tale, who draws a, 50.
Telling the truth for nothing, 445.
Temper, do not lose your, 129.
Tenantry, the Irish, 200.
Tender, making a, 183.
Tenterden, Lord, 490.
Term, merger of a, 179.
Terms for a speech, lowest, 161.
mastering technical, 201.
Test, Justice, 438.
Testamentary papers, 537.

Testator, jolly, 536.
Testimony, 491.
Thatcher, George, 448.
Theory of politics, true, 844.
of the case, 522.
Thesiger, Sir Frederick, 500.
Thief, hang when young, 49.
Things of a higher nature, 842.
Think of his poor mother, 181.
Thinking aloud, 887.
Thirst for office, great, 508.
Thirteen men to steal a farm, 512.
Thirteenth juror, 254, 489.
Thompson, Richard W., 295.
Thou art the clay, 198.
shalt not steal, 101.
Though the heavens fall, 880.
Thought, strike with the mace of, 49.
Thurber's turkey, as fine as, 100.
Thurlow, Lord, 501.
Thurston, John M., 502.
Ticket, railway, 214, 515.
Tickle my client, 266.
Tigers, Bengal, 94.
Time, don't waste your, 885.
exhausts, 102.
one at a, 68.
precise, 24.
shall be no more, when, 819.
you have me this, 865.
Tipstaff, 178, 333, 438, 502.
Titles, tax, 87.
Toasts, response to, 28, 82, 343, 349, 476.
Together, stick, 474.
Tolerant of every faith, 368.
Tomb, on pleader's, 187.
To-morrow, call, 267.
never put off until, 67.
Tongue, pliancy of, 289.
Toombs, Robert, 474.
Tower of Babel, 133.
Townsend, J. B., 357.
Townshend, Charles, 504.
Train, Charles R., 164.
speed of, 500.
Traitor, 459.
Traveling incog., 241.
Travers, William R., 505.
Treason, 235.
Treasury, golden, 541.
of wit and wisdom, 541.
Trespassing, 442.
Trial, motion for new, 61, 189, 356.
Trials, state, 251.
Tribute to the common law, 282.
Trick worth two of that, 175.
Trickery may win, 282.
Trimming, differ about, 459.
Triumphant peace, 346.
Trousers, engine in, 526.
True bill, a, 152.
Truly condescending, 390.
Trumpet of fame, 310.
Truth and honesty, character for, 448.
finds the, 41.
from a statesman, 402.
greater the, 341.
killing the, 413.
swearing to, 4.
telling the, 413, 445, 446.
wedded to the, 328.
what is, 105.
wrestling with, 506.
Trying in Irish, 249.
Turkey, as fine as Thurber's, 100.
Turn about, fair play, 342.
-coats, 174.
over, 171.
Turner, Bates, 437.
Turney, James, 465.
Turpentine, 2.

Two sides, 332.
Tyranny begins, there, 281.

Ugliness, 91.
Ultimatum respondenti, 182.
Unanimous verdict, 514.
Unbalanced, very much, 537.
Uncertainty, glorious, 340.
in description, 37.
Unconstitutional, 206.
Understand it, perhaps the court will, 62.
them, don't, 434.
you to say, do I, 448.
Understanding between them, no, 173.
floodgates of the, 189.
the points, 262.
Understood, meant to be, 437.
Undertaker, an, 263.
Underwood, William H., 506.
Unfortunate client, 179.
Union, liberty and, 523.
chorus of the, 294.
is my country, the, 97.
music of the, 88.
our Federal, 247.
Unit, conjugal, 41.
in the cabinet, only, 58.
Unjust thing, when about to do an, 411.
United States Supreme Court, 90, 124, 225.
Unlimited power corrupts, 281.
Unrepentant, error, 330.
Unspotted, living, 74.

Value to them, giving, 58.
Van Brunt, Justice, 83.
Van Buren, John, 508.
Vance, Zebulon B., 510.
Verb, declining a, 147.
Verbal agreement, a, 181.
Verbiage, stripped of, 483.
Verdict, 379, 510.
Vermin shyster, 397.
Very dull, 307.
Vest, George, 399.
Veteran of the war, 26.
Victory in law is won, 50.
Vigilance committee, epitaph by, 188.
Vine, land of cedar and, 275.
Violating a solemn affidavit, 5.
Virago, a first-class, 484.
Virginian, not a, 235.
Virtue, incarnation of piety and, 77.
Virtues, contemplating their, 82.
Vocabulary, airing his, 150.
of the card-table, 437.
Voorhees, Daniel W., 297.
Vote, Scotch, 452.

Waite, M. R., 284, 515.
Waiting to call the next witness, 435.
Walking in the air, 312.
Wall to the blackguard, 424.
Walton, Charles W., 516.
Walworth, R. H., 517.
Wandering in the wilderness, 40.
War, mistakes of the, 13.
veteran of the, 26.
Ward, Baron, 251.
Ware, Eugene F., 334, 519.
Warner, Charles Dudley, 520.
Washington or Columbus, 382.
Waste your time, never, 385.
Water, angler of the first, 453.
case, a, 186.
Watermelon, dropping the, 484.
We are the potters, 198.
Wear a chain, no man, 408.

Webster, Daniel, 78, 323. 378, 522.
murder, the, 72.
Wedded to the truth, 326.
West, the farther I go, 258.
Westbury, Richard B., 186, 533.
Westmoreland, Lord, 179.
Wetherell, Sir Charles, 534.
What is an archdeacon, 14.
is truth, 105.
Wheeler, E. D., 357.
When I can't talk sense, 343.
Whigs all ciphers, 58.
Whist, playing, 63.
Whistle, seven-foot, 298.
White, black, 379.
man or negro, 297.
Whiton, Edward V., 534.
Who matches a lawyer, 289.
Widower, 326.
Wife, husband and, 41.
legal rights of, 41.
Wightman, Justice, 442.
Wigs, 40, 152, 220, 361.
Wilderness, Moses wandering in the, 40.
of single instances, 410.
Wilkins, Charles, 25, 482, 535.
Will, 536.
Williams, Elisha, 21.
Wills, 536.
Justice, 433.
Wiltse, H. M., 396.
Win, trickery may, 282.
Wings, clipping his, 95.
to his imagination, 61.
Winning the case, 366, 399.
Wirt, William, 315, 316, 411, 531, 540.
Wisdom led by folly, 98.
manners often hide, 472.
of successive ages, 404.
Wisdom, perfection of, 281.
treasury of wit and, 541.
Wise, looking, 254.
men from the east, 253.
or witty, 536.
Wiser, not one bit the, 378.
than a daw, no. 280.
Wit and wisdom, treasury of, 541.
foundation of, 193.
full of, 294.
soul of, 49.
Witchcraft, 312.
Witness offensively familiar, 446.
waiting to call the next, 435.
Witnesses, jury and court, 197.
repartee, 445.
retort, 445.
Wits, court and its little, 90.
Witty, wise or, 536.
Woman who makes her own will, 536.
Won, victory in law is, 50.
Wonder grew, and still the, 81.
Wonders now and then, God works, 186.
Woodle, Isaac, 534.
Wool, all cry, little, 143.
Woolsack, one stage from, 58.
Words ahead, fifteen, 474.
mere, 291.
spoken, indictment for, 204.
Working by the hour, 521.
like a horse, 171.
World, foolery governs the, 459.
Worst has merits, 290.
judge in England, 534.
of a horse trade, 297.
Worth, at its, 211.
the price, not, 517.
two of that, trick, 175.
Woun led, fatally, 497.

Wrestling with the truth, 506.
Wretches hang, 515.
Writ, quashing a, 355.
serving a, 4.
Wright, George G., 243.
Wrong, all, 318.
argument, 41.
in the principle, 410.
never defend, 300.
side, 332.
sure to be, 41, 310.
wherein it is, 318.

Yankee carpet-bagger, 8.
characteristics, 160.
Yea, all that a man hath, 71.
Yes or no, 53, 490.
Yesterday, as I remarked, 432.
Young, hang a thief when, 49.
lawyer, hints to the, 281.
Lord, 435.
merciful to the, 129.

Zephyr, a Kansas, 519.
light wings of, 275.

STANFORD UNIVERSITY LIBRARY

To avoid fine, this book should be returned on or before the date last stamped below

NOV 17 1937
DEC 28 1937
3/13/40

AR ABV XPw
Wit and humor of bench and bar
Stanford Law Library
3 6105 044 043 276